

CITRUSPUB00635
10/04/2012

CITRUS
pp 00635-00679

PUBLIC
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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION CITRUS

Reference: Operation E10/1831

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 10 APRIL 2012

AT 2.07PM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, Mr Morris.

MR MORRIS: Thank you, your Honour.

<ATILLA DEMIRALAY, on former affirmation

[2.07pm]

10

MR MORRIS: I was asking you, Mr Demiralay, about the change that took place on 25 June, 2010 to the shareholding and the disposal of shares to Mr Mylonas, do you recall that - that discussion?---Yeah.

Now, I want you to assume that I-Secure and Succuro Recruitment were in fact the same business, all right. Does that accord with your recollection? ---You've asked me to assume that.

20 Well, does it accord with your recollection?---From my understanding since being here, yes.

Yes?---Not at the time.

And indeed, Succuro Recruitment, you've heard the evidence here only had income from the University of Sydney through the years I think 2008, 2009, 2010, do you recall hearing that evidence here?---Yes, I do and it was news to me.

30 And your wife continued to be employed by Succuro Recruitment through 2008, 2009 and 2010, correct?---Correct.

And she continued to be a part-owner up until 25 June, 2010. Now what do you - do you know about that?---Yes.

And did you know about that as at June 2010?---Oh, June 2010, sorry, I got my dates mixed up.

No, no?---No - did I - no.

40

Sorry, the answer?---No, not that I can recall.

Now, is it possible you, did you know that if the Sydney University stopped using Succuro Recruitment there would be basically a cut-off in the cash flow of that company?---No, I wasn't aware of that.

Were you aware that if that occurred, your wife may have lost her job. Is that correct?---No, I don't know if she would have or if she wouldn't have, that would have been up to Bill Mylonas to decide.

Right. Now, what do you, did you ever observe your wife working at home?---Very very rarely, very rarely. Like I said earlier on, I'd, I'd be at work at 7.00 and I'd be home at 7.00 so whatever she did I wasn't actually aware of it. She actually had a small desk set up in our kitchen area with a laptop and piles and piles of paper and whatever, but no.

10

She also had a small child, didn't she?---She did.

And I take it that for her to work part time at the rate of between, there's been various estimates of what she was earning, \$500 and \$600 a week- -? ---Ah hmm.

20

- - -was a comfortable position for her to maintain an income and look after a child. Correct?---I, I have no idea. That was an arrangement that was met, that was reached by, by them. I had no influence in that. I don't know if that's adequate or fair or for what she was doing, I don't have an understanding of what she was doing so I can't, I can't really comment on that.

Yes, but the income of the family was an important consideration for you, wasn't it?---The income of the family was, was basically me in my eyes. Our finances were completely separate so I have no idea.

30

You both had mortgages and you had a mortgage over your property? ---Yes.

And by the way, that's a property that was the registered address of Succuro Recruitment, wasn't it?---I realise that now, yes.

Yes. And you recall receiving correspondence there, do you recall correspondence there addressed to Succuro?---I don't, but my wife actually did mention it to me at one stage, that there was mail coming through and she was surprised herself, that's the impression I got.

40

What did she, when was this?---Oh, I have no idea, you're asking me to go back, it's something that, you know, probably happened once or, once, twice over how many years, I wouldn't have a clue.

What did she say to you?---She goes, "They're sending mail, mail here", she goes, "I'll have to get that rectified", or something along those lines.

They're sending mail to whom here?---To our address. I don't know, I didn't look into it, I didn't question any further.

Now, is it the case that you became aware that you were a shareholder in about August 2008 and you told your wife to get your name off the public register?---No.

And are you aware of any attempt by your wife to try and get your name off the public register of the company as at September 2008?---No, I can't say that I'm aware of it. Like I said earlier, she did say there was a problem with the way that the company was set up and she had to rectify something, but that's, that's all I can remember.

10

Did she say why she had to rectify it?---No, and I didn't ask.

Is it because you were concerned that you may be too closely associated with Succuro Recruitment, given that you were allocating contracts at the Sydney University?---I don't, I don't believe that to be the case, no.

20

And is it the case that in about March 2009 was the first time that I-Secure became bandied around as a business name, so far as, so far as you recall? ---I actually can't recollect, I do recall the name I-Secure but when, I have no idea.

And did you have a discussion prior to that, I want you to assume that there was a name change in about March 2009 of the company from Succuro Recruitment to I-Secure. Were you aware of that?---No, I wasn't aware of that. Like I said, my impression was that it was supposed to be a completely new entity and I, and I was under the impression, well, in my mind anyway that that entity was called I-Secure.

30

Is it possible that you and your wife had a discussion about changing the name?---No, that's not possible.

And is it possible that you changed the name in order to provide a firewall between your allocation of contract work at the Sydney University and the actual recipient of the contract money?---No.

Now, going to the disposition of your shares - - -?---Ah hmm.

- - - you say it was just another form that you signed?---Yep.

40

All right. And that you didn't - - -?---I believed that was to rectify the error that was in place. I have no idea.

To rectify the error?---Yep.

Who said that to you?---My wife, she said there's a problem with the way that this was set up and she said we've got to change it and I didn't say anything.

And what was the problem that she identified?---I don't know. She just said she was going to rectify it.

And you say you didn't read the document?---No.

Can I suggest – now you never did business with I-Secure at the University of Sydney did you?---No. As I stated earlier for me it was always Succuro.

10 And if you'd read that document that you signed disposing the shares to Mr Mylonas - - -?---Ah hmm.

- - - you'd have recognised I take it – well did you – if you'd read that document you'd have recognised that there may have been a problem with you holding shares in the company that was operating the Succuro business?---Well if I had looked into it I probably would have assumed that was what the error was, yeah.

20 And that given the publication of the Operation Kanda transcript which had gone around at least to you at the University, you'd recognise that that would have put you in a very serious problem so far as your conflict of interest was concerned. Correct?---If I had looked into Operation Kanda or whatever, potentially yes. But I hadn't.

And did you ever think after June 2010 to go to Mr Pigot and say there has been an error?---No, because I didn't realise there was a problem at the time.

I'm sorry?---No, because I didn't realise there was a problem at the time.

30 If you did realise it was a problem at the time - - -?---Ah hmm.

- - - contrary to your evidence here, that would have been a prudent and readily available step for you to take wouldn't it?---If I'd known at the time, yes.

In other words a full disclosure to your supervisor?---Correct.

And yet no step was taken?---No.

40 You say because you didn't read the document?---Correct.

All right?---But in saying that when I did – when I was actually approached by ICAC and they stated that I was a director of this organisation, yeah, at that stage I did discuss it with Mr Pigot.

What did you say to him?---We had a cup of coffee – I actually asked to, to meet with him and I said, “there's a bit of an issue.” I didn't go into any details. Mr Pigot didn't want to go into details as well. But I gave him a brief, a very brief summary and we left it at that.

What were the words you said to him?---I don't know. I basically said there's a miscommunication, this is what ICAC are actually alleging. I'm not, I'm not aware of what they're actually saying, along those lines. And I probably would have kept it at just a few sentences. And Mr Pigot he actually did say, "if it is being investigated by ICAC well I don't want you to go, go into any details." Which was, which was fair enough.

10 Did you ever sign a consent to act as a director for Succuro?---Not knowingly.

Not knowingly. The – it's Exhibit 2, sorry Exhibit, it's Exhibit 2 I think, volume 3. Have you got that in front of you? Page 460?---Yep.

That's your signature on that document to the right isn't it?---Correct.

And you see the words "secretary or director"?---Yeah.

20 You knew that a secretary or director insofar as a company was concerned was a formal office holding, didn't you?---Like I said to you earlier on, I wasn't aware, I've never been a secretary, director, anything to that extent previously and again, I reiterate, I went by on what my wife actually told me and she actually said this was a tax effective way of doing it, it was recommended by the accountant so I signed, I, I don't, I didn't even think about it at the time, I didn't even, I didn't even look at that.

30 A tax-effective way of doing what?---I don't know, I really don't know, this is what her accountant said and she said this is, this is what he recommended, this is how he recommended I set the business up and that's what, and that's why she's doing it.

What was the business you thought she was talking about?---Jeez, we're going over common ground again. The, the - she came to me, like I said, and she was setting up a separate entity, a different business to Succuro, completely different and that's what, the impression that I was, that's the impression that I was under.

40 Okay. Just have a look at this document will you, Mr Demiralay, page 460, do you see that share certificate?---Yeah.

Right. Next time, Succuro Recruitment Pty Limited?---Yeah.

Right. And then you've got - this is to certify that each of you, that's your wife and yourself, are the holder of 10 ordinary shares?---Ah hmm.

And then immediately below your signature are the words "secretary or director"?---Yeah.

You're trying to tell the Commission that that is a complete mystery to you?
---What I'm trying to tell the Commission is that, is that I had a very late night, I came home, I'd been out, I came home and that's what my wife told me. I'm pretty sure I had a few drinks, we, we had a brief chat and she flicked it from page to page to page and I signed, signed, signed.

But that must, is what - when she said that it was a tax effective method of establishing the business - - -?---Ah hmm.

10 - - - all right, and you were signing above secretary or director - - -?---Yeah.

- - - all right, you must have thought that you were becoming a secretary or director of the business?---I didn't, I didn't even look there, I just looked at the double line and I signed.

ASSISTANT COMMISSIONER: So what - how could you look at the line without seeing what's under it?---Commissioner, like I said, it was very late at night.

20 I don't care how late at night it was?---Okay.

Your evidence - what about the document at page 466 with which you've just been looking at, headed "Share transfer"?---Yes.

It's headed "Share transfer" in big - - -?---Yes.

- - - letters underlined?---Mmm.

30 Were you drunk when you signed this?---No, I, I, I signed that because like I said my wife said there was an error in the way that this was all set up.

I don't want to hear that again. So you understood this was a share transfer?
---On recollection, I can't, I can't even recollect.

Well, you must have, it says share transfer in very big letters on the top of it?---I don't know, for whatever reason, I don't know, I didn't even look, I didn't.

40 So do you, you make it a habit to just completely not look at any word of any document you sign?---Unfortunately it looks that way, doesn't it?

You look at the dotted lines but nothing else?---Unfortunately it looks that way but, you know - - -

Well, is it that way, you're the one giving the evidence?---It is that way.

So you just, you, you don't look at anything, you don't look at the title, you don't look at any word in the document, you don't even look what's underneath the line you're signing?---On those occasions, yes.

That's, that is the evidence you want to give here today?---Yes.

Yes, thank you, Mr Morris.

10 MR MORRIS: You see, Mr Demiralay, I want to suggest something to you?---Ah hmm.

All right. I want to suggest that the evidence that you've given today about the Code of Conduct and your knowledge about the procedures at the Sydney University is a conscious choice by you to admit to incompetence? ---Incorrect.

Hey?---Yes, okay.

20 And this evidence about the, that her Honour's just been talking to you about is another attempt by you to admit to incompetence?---Incompetence, negligence, naivety, yes.

You see, I want you, I want to put a proposition to you that the alternative, that's - I want to suggest to you that incompetence is the only choice you have in giving evidence to her Honour because the alternative is corruption? ---The alternative is not, isn't correct, it wasn't corruption.

30 And you would rather give evidence to Her Honour that you were incompetent than intentionally involved in misusing your position as manager to channel work to a company that both you and your wife had a financial interest in?---Well, it's incompetence in that case because it wasn't intentional.

You keep saying that, but I want to suggest that the evidence that you're giving about your incompetence is in fact false?---I disagree with you.

40 And I want to suggest to you that in fact you well knew what was going on insofar as diverting work to Succuro and the benefit that would ultimately accrue to your family?---I disagree.

Now, you also, we've dealt with Mr Tsipidis being your brother-in-law, right?---Yep.

And he ended up getting a job as team leader resourcing. Correct? ---Correct.

And that was a job that had previously not existed at ICT. Correct? ---Correct.

And that job was in part to take over many of the employment issues that you were dealing with up until that point?---It was a mechanism to assist because the team had just grown way too large and it, under my responsibilities I could not deal with the workload myself. The team went from 17, as previously heard in this room, went from 17 to 70.

But he was going to take over a great deal of the recruitment responsibility by being appointed in that role. Correct?---Correct.

10

And that recruitment responsibility in part led to the allocation of IT contracting work to Succuro. Correct?---Correct.

And he says that he had no idea that either you or your wife had a proprietorial interest in Succuro Recruitment?---That's correct.

Right?---I didn't know I did so he couldn't have either.

I know you say that, Mr Demiralay, you've said it a number of times. Okay.
20 Now, is it the case that you appointed Mr Tshipidis to that role, right, so that you could ensure that the work continued to go to Succuro Recruitment?
---No.

And to make sure that you had somebody who was responsible for that IT recruitment work who was to use a better term, friendly to your position?
---No.

Is it a, was it an appointment that gave you confidence that Mr Tshipidis would do what you directed him to do?---He would have done what I
30 directed him to do, because it was a chain of command, but not, not necessarily towards Succuro, no.

But you could rely on him, I suggest, not to pull you up on various anomalies I suggest in the recruitment process?---No.

And that he would essentially be an obedient servant to you?---I disagree, incorrect.

You heard Mr Tshipidis' evidence that basically if Todd wanted something
40 done, that's what would happen. That was the essence of part of his evidence. Do you recall that?---Yes, I was the manager.

And that he left those – he essentially complied with your direction?---As anyone that was reporting to me, correct.

And Mr Passe, we've been through, you knew him from prior employment?---Correct.

You knew Mr Smeros previously?---No. I met Mr Smeros – like I said at a wedding.

What about Mr Buxton?---I had a prior working arrangement with Mr Buxton.

You also had a prior friendship with Mr Buxton too didn't you?---Yes. Correct.

10 And Mr Buxton can I suggest came to you as an independent contractor of – who was operating his own company. Correct?---Correct.

You didn't take him through Succuro did you?---No, because I gave him the option.

I'm sorry?---He was given the option. He actually had his own ABN - - -

Yes?--- - - - as per, as per University standards. Other contractors if they had their own ABN they could utilise their own ABN.

20

And he was being paid, can I suggest, well in excess of what a University employee would have been paid. Correct?---I disagree.

He was I think being paid in the order of roughly speaking \$700 a day? ---Correct. Something like that.

And what was a University employee being paid at about that time for a team leader position?---For a team leader position anywhere from \$80 to 110 would have been the average, based on skills, experience.

30

\$80 to 110 per day?---Yeah. We paid our CSO's 50.

ASSISTANT COMMISSIONER: You mean per hour?---Per hour, yes.

You're talking about contractors?---Yes.

MR MORRIS: I'm talking about permanent employees?---Permanent employees?

40 Yes?---You cannot put an employees and contractors in the same basket.

Well I just want to ask what was a permanent employee in a team leadership position being paid?---In a team leader position probably all up 100, anywhere, depending on the grade probably from 85 to close to 100.

Yes. Mr Buxton was being paid 100 wasn't he?---Yep.

And other employees were being paid in the order of 85. Correct?---To 100.

And indeed you knew that when you were paying Succuro - - -?---Ah hmm.

- - - you were paying – when you were employing contractors through Succuro there was a differential between what the contractor was being paid and what you were paying Succuro. Correct?---Could you - - -

Did you ever make any inquiries to what the mark-up was - - -?---No.

10 - - - between what the contractor was paid and what Succuro was charging you?---No. No.

Did you ever try and set a minimum mark-up for any, for any – did you ever make any inquiry as to what the differential was?---No, not that I believe I did, no.

Did you try and work it out on percentage terms?---No.

20 Did you try and ascertain from the market what a standard industry mark-up was?---No.

All right. By the way just going back to Mr Buxton, he was only there for six months wasn't he?---That's correct. That's what he actually signed on for.

And he was being paid \$100,000 for the term of his contract wasn't he?
---Based on his hourly rate, I guess.

30 Now I want to – Mr Selamat - - -?---Ah hmm.

- - - right, did you know him?---No.

You didn't know him?---Again, I met him at a wedding I believe. But I did not have a relationship or a friendship with him at all.

Right. Your Honour, I'm going to tender at this stage documents that have previously been distributed to the parties. Emails, volume 5, there's one for the witness and one for your Honour.

40 ASSISTANT COMMISSIONER: Yes. Well, those emails, volume 5, will be Exhibit 54.

#EXHIBIT 54 - FOLDER ENTITLED VOLUME 5

MR MORRIS: If you go to page 325 of that document, please. Actually go to 272. Do you see here it's an email from Mr Mylonas to yourself- - -?

---Yep.

- - -enclosing resumes of Bach and Taylor?---Ah hmm.

And you'll see if you wish to flick through, they go through until page 279. Right?---Yep.

Now, I want you to go to page, sorry, 325. This is a recruitment confirmation. Do you see that?---Yes.

10

And you see there that this is for Andri Selamat?---Ah hmm.

Do you see that?---Yes.

And you see that the rate is 693 per day?---Ah hmm.

And the estimated contract cost is \$90,000?---Correct.

20

And it's for a six-month contract. Right. Now, just go down, list of agency, did you generate this document or was it Mr Tshipidis?---I'm not, I can't, I can't be sure. I don't recall.

That indicates that only Succuro Recruitment had been contacted?---Yep.

And it's got a list of resumes there- - -?---Ah hmm.

- - -right, for Selamat, Bach and Taylor?---Yeah.

30

All from Succuro?---Ah hmm.

Right. And you keep going down, interview conducted by- - -?---Yes.

- - -Todd Demiralay, George Tshipidis and Andy Apin?---Ah hmm.

Right. And do you actually recall interviews taking place for Mr Bach and Mr Taylor?---No. I believe that they didn't have, their skill sets weren't as good as Mr Selamat's.

40

So they were excluded at the time of, on the papers, as it were?---That's right, and we'd done this previously before and it was acknowledged by, by Finance. It was acknowledged by Finance that we've done that previously before.

Now, the, you're, you're aware I take it that Mr Bach and Mr Taylor- - -? ---Ah hmm.

- - -say that they never attended an interview at the University?---I was made aware of that here, yes.

Yeah. And you're also aware that they never provided their curriculum vitae to Succuro. You're aware of that?---I've seen it in the paperwork but I wasn't aware of that, no.

Okay. Now, what happened, now, that's 21 October. What happened was, sorry. See that's the, what date's that, do you know what date that was, that recruitment confirmation?---No, not sure, there's no date on the form.

10 Okay. Go to the next page, 323?---Ah hmm.

Do you see there's a note from- -?---Which is 323?

I'm sorry, I want you to, I want you to assume that that document is 21 October, if you go to page 324, right?---324 was just a- - -

Yeah?---Yeah.

20 On 28 September there's a note from George Tsipidis to Irma Torres?
---Ah hmm.

Right. "Todd is away for the week, as Todd is away for the week I just had a thought re the above and wanted to check that the ball is rolling. Have you received the recruitment confirmation re the above for Andri Selamat? He has been recruited via the agency Succuro for an initial six-month term." Do you see that?---(NO AUDIBLE REPLY)

323?---Yes.

30 Then there's an exchange of correspondence that goes into 322, right, and you start getting carbon copied in at 321 at, page 321 29 September?---Ah hmm.

Right. "I'm extremely busy at the moment but I'll try to do the recruitment confirmation for Andri Selamat on Friday", right?---Ah hmm.

Now Friday would be 1 October?---Yeah.

40 All right. "Unfortunately I don't know the other details like the contractors or agency interviewed", this is Irma Torres, "and the reasons for hiring Andri Selamat"?---Ah hmm.

"Furthermore, you are either, either you or Todd will need to sign it" et cetera?---Ah hmm.

Right. George Tsipidis writes back acknowledging receipt and Irma sends the recruitment confirmation, "Please check and read, sign and complete the form as I don't know the other details." Right?---Ah hmm.

So that was forwarded off. Now, what I want to get to is 21 October, 2010 on page 318, "I will proceed with the drawing up of Andri's contract and send it to Mark Pigot for signature" this was from Irma and it's cc'd to you "However for quotation requirements you need two more candidates." Right?---Yeah.

"Please send their names and details to me and I will add them to the recruitment confirmation", you see that?---Yes.

10

And you then say, "The two other candidates that were unsuccessful were Stephen Bach and Patrick Taylor"?---Ah hmm.

You see that?---Yeah.

Now is that - was that course of correspondence and the generation of the recruitment - sorry, was the use of the names Stephen Bach and Patrick Taylor - - -?---Ah hmm.

20

- - - produced after it was decided to appoint Andri Selamat to the position as team leader?---I don't believe so, I don't believe so. I believe that we did receive the two CVs but on paper Andri was so much better. I really can't recall the time, its, its, I do recall being on, on, on leave around that time. I was actually quite ill as well as, as Irma makes comment in there as well so I've been trying to, to think about this but I really can't, I really can't recall.

Is it possible?---I don't if, if, if Irma filled the paperwork out using those names, if it was me, whether I sent that email from home, I'm, I just, I just draw a blank, I'm just, I'm not sure about, about it.

30

You say - is it, so it is possible that you'd made the decision then to appoint Andri Selamat and you put forward the other two people - - -?---Ah hmm.

- - - after the event to try and make up the quotation requirements?---I'd say that Andri was, was a referred candidate with very high qualifications. He actually came referred by, by Peter and as Peter earlier on that was something that was discussed between Peter and Mark Pigot, I wasn't actually aware of that so he was a candidate of a very high calibre so we did actually look at a couple of other CVs but, but Andri under the circumstances, under, from recollection was the much better candidate.

40

So you'd formed the view that Andri Selamat was a known person?---Not known, not known specifically to me but to, to others, yes.

And who were the others?---Oh, Peter, Peter Smeros, they actually previously worked together before and from recollection it was Peter that actually made Andri aware that potentially there was a position. And it's

like I said, I found out during this hearing that Peter had mentioned that to Mr Pigot as well. I wasn't aware of that.

Now - - -?---I thought I actually mentioned it to Mr Pigot, but like I said I draw a blank around that time.

Okay. Now if you go to page 328, this relates to the appointment of a contractor by the name of Aleksander Jankovic?---Ah hmm.

10 Right. Now here is a note that you have seen I suggest?---Yes.

Right?---Ah hmm.

And it was a note from George Tshipidis to Fang Zhou about the desire to appoint Jankovic to a full time position within field services. Correct?
---Correct.

20 And if you go to the next page 327, Fang Zhou wrote to Mr Tshipidis on 25 November saying that you need to advertise it as both internal and external – to internal and external candidates if you look at the bottom?---Yep.

Right. “There’s a recent test case where a contractor was not deemed to be an internal applicant. We can place the advert on the University website only so that it doesn’t attract many applicants.” Right?---Ah hmm.

And if you go to the top of that page that chain of email correspondence was forwarded to you on 26 November. Do you see that?---Yes.

30 “Todd, see below re CC role and advertising process confirms my previous concerns”?---Yes.

Now do you actually recall this exchange of emails?---Yes, kind of, yeah.

Right. And then on 26 November, if you go to page 326?---Ah hmm.

40 Right. At 8.15, so about 20 minutes later, you write to, write back to Mr Tshipidis, “The whole recruitment process is getting out of hand. We’re spending all our time on recruitment. I have had enough. Ask Fang to advertise to both internal and external applicants, but only on our intranet. Once the advertising is closed I’ll take responsibility and cull the applicants to Aleks and one applicant. You and I will perform the interviews very quickly and we’ll appoint Aleks as the most suitable candidate.” Right?
---Yep.

“Please ask Fang to send compiled candidate report to both of us”?---Yep.

Right. Now Mr Demiralay, does that not appear to you to be a statement whereby you are seeking to essentially stack the selection process to get

who you wanted?---It does appear that way. But I can honestly say that this was done out of pure frustration, pure frustration that it had taken us X amount of months to get to where we were and then they changed the, the rules and you can see the frustration in my email there. We actually had Aleks Jankovic was, was an employee of the University for 18 months, he'd been fulfilling a role in the eyes of management and myself, he was deemed to be a very good employee and a high achiever. But unfortunately they, they changed it so that contractors could not apply for internal positions. And that was based on a director's spiel that had actually happened recently.
10 So that's just absolute frustration. You can see I'm at my wits end there. I said this is getting out of hand we're spending all our time on it, you know, every time we went to, to Sydney Recruitment or to HR or to Finance, we got, we got a different story. So it's just, on this occasion it's just pure, pure frustration.

So you accept that what you are actually doing was stacking the selection process but you try to proffer an explanation for?---I did provide an explanation, yes. And I'm not even, I'll take that back. It was just out of sheer frustration, yes.
20

And then if you go to 331- - -?---You can even see there that Fang is the one that actually says, 'We can actually advertise on the internal Website only', so we took his recommendation on that one.

You see, actually just go to 337. Here's a note from George Tsipidis, copied in to you that you conducted the two interviews for the above position?---Ah hmm.

Right. And that the successful applicant was Aleksander Jankovic?
30 ---Yep.

Right. Now, that, can I suggest, is a manipulation of the staff recruiting policies in order to get the person you wanted?---Yes, it looks like I did bend the rules there, correct.

Well, it's not just bend the rules, you ignored them?---The dilemma was that the, the, Aleks was actually in the position for 18 months and then we went through the whole process of, of, of raising the paperwork, doing everything right, and then it was turned upside down, so, so if I wasn't actually allowed
40 to, to recruit Aleks after 18 months, then I'd actually have to deal with, with the implications with Aleks. We had a person in the role that was very successful with the role and on top of that as well we actually had an initiative in plan at the management level, myself or my peers, where we tried to promote our high achievers and we actually had offsite meetings to, to, to discuss our high achievers and it wasn't just, the decision wasn't just based on me but we got to discuss each other's staff. So Aleks was a very high achiever, we definitely did want him to work for the University on a full-time basis, he was beneficial. So again it was purely out of frustration.

Sorry, you wanted him to work for the University?---No.

When you say we wanted him to work for the University, who are you talking about?---I'm talking about ah, ah, Mr Pigot, my peers. We'd actually have offsite meetings where we, one of the agenda items were all our, we'd cover all, all staff across the board.

10 Did you copy Mr Pigot into this- - -?---No.

- - -material?---No.

You just, did you make a decision to conceal it from him?---No.

Why didn't you send it to him?---Oh, this, this, no, this, Mr Pigot would not have been aware of this, no.

20 Did you make a decision to conceal it from him?---It wasn't, it wasn't a, it didn't even cross my mind at the time.

Did you think to go to Mr Pigot and say, I'm spending all my time on recruiting, I can't keep up with it, there's got to be some better way of doing it?---No, because I, it, it, it didn't, Mr Pigot would have known how much time that- - -

MR GOLLAN: I object to that, Mr Pigot would have known.

ASSISTANT COMMISSIONER: Yes.

30 THE WITNESS: No. But I believe that during our fortnightly meetings I would have discussed a lot of staff-related- - -

MR GOLLAN: I object to that.

THE WITNESS: - - -issues.

MR GOLLAN: What I would have done, rather than putting it so that I can deal with it when it's- - -

40 ASSISTANT COMMISSIONER: Yes, you can, you can say, if you remember telling Mr Pigot something about this issue you can say it? ---I don't, Commissioner.

MR MORRIS: Is there a reason why you didn't flick this email chain to Mr Pigot?---No, I wouldn't have taken issues at this level to Mr Pigot, it's something that I would have dealt with myself. I- - -

But he was going to inherit Mr Jankovic as a full-time employee, don't you think he'd have had an interest in it?---Like I said, I don't believe that, I think this would, this would have been something that I could have dealt with on my own and it wouldn't have been escalated to Mr Pigot. He was busy enough as it was in my, as far as I was concerned.

Did you ask Mr Pigot whether you were entitled to bend the rules?---No.

Now, Mr Hunt- - -?---Yes.

10

You had a need for a position, didn't you?---Ah hmm.

As about November 2009, do you recall?---I don't recall dates.

And you interviewed three people, Steve Kokkinis, James Law and Tina Huang?---Yes.

All right. And you formed the view that none of them were suitable?
---Correct.

20

And you had a discussion, did you have a discussion with Rebecca Astar in relation to the refusal to appoint Tina Huang to the position?---A discussion did take place, correct, it was after the interview and it was in the presence of all committee members.

It was in the presence of all committee members?---Yes, Selection Committee members.

30

Can I suggest it was with Mr Zhou and Ms Astar?---I believe that took place after the interviews.

Right. And Ms Astar was from outside your team?---Correct.

All right. She was from either Sydney Recruiting or human resources, wasn't it?---Yes, Sydney Recruitment.

Sorry, Sydney Recruitment. Okay. And she had a discussion with you and Mr Zhou - - -?---Ah hmm.

40

- - - afterwards, after the event saying that she thought that Tina Huang fitted the bill?---I remember that, yes.

Yeah. And you disagreed?---Correct, strongly disagreed.

Now, do you recall who it was who was on the interview panel - - -?---I think it was - - -

- - - on that occasion?---Adrian Buxton and George Tsipidis, possibly, yeah.

If we go to volume 5, 140. Now, that was only after an internal advertising campaign, was it?---I beg your pardon.

Was that only after - did you only get those people after an internal advertising campaign?---Which ones?

Steve Kokkinis, James Law, Tina Huang?---No, that was internal and external.

10

Right. And they're the three you've got?---Yes.

And did you consider that to be an extensive - - -?---Yes, I did.

- - - search?---Yes. It had actually taken us - once the paperwork was raised I think it actually took us over three months to get to the position where we could actually interview and by that stage I actually had two team leaders running four teams.

20

Sorry, you had?---Two team leaders running four teams because we were, we were, we were undermanned.

Okay. Well, for instance if you go to 155, Tina Huang's application is 8 October?---Yeah.

Right. And the interviews were on 9 November, sorry, the interviews were set on 9 November for a 12 November interview?---Yes.

30

And Steve Kokkinis doesn't give the date of his but James Law it seems, if you go to page 171, seems to have responded on 13 October?---Yes, and Mr Law bailed out if I remember correctly.

So do you know when the advertising opened?---Ah, no, not off the top of my head.

Right?---But when I say, when I talk about the three month delay I'm not talking about the three month delay, I'm talking about the entire process from the time that the requisition was actually raised and the, the process was initiated.

40

And then what happened I suggest is that you arranged to go to a contractor for that position, right?---I asked permission, yes.

Yeah. And the rationale for doing so was that you'd already had an extensive search and you wanted to go to a contractor?---That's correct. Ms Huang had good qualifications but not necessarily on a, within a technical background, she came from a help desk environment which in, in IT really is one rung below where my team would have actually operated.

She would not have had the technical abilities to manage a technical team and that was what was emphasised to Sydney Recruitment. Unfortunately the, the young lady from Sydney Recruitment, she did not have an IT background so she would not have actually understood that.

Well how do you know that?---She was from Sydney Recruitment, she didn't have a, she did not have an IT background. She had a HR background.

10 Right. Ms Huang's CV will speak for itself, I suggest?---Yes.

But you then went to Succuro and you had a referral by – for Mr Gerard Hunt. Do you recall that?---Yes, I do.

And do you recall what he was going to get paid?---He was coming on as full time so it would have been team leader level paid rate. He wasn't a contractor, he was full time.

20 Now you're also aware that there was a placement fee - - -?---Correct.

- - - which you sought a quotation waiver - that needed a quotation waiver?
---Yes.

All right. Now that placement fee was going to be in the order of 15 odd thousand dollars. Correct?---That's correct.

30 And you sought from Sydney – from the finance department a quotation waiver for the payment of that fee. Correct?---I did not request a quotation waiver from, from finance. Finance actually informed me that I had to fill out a quotation waiver. Up until that day I'd never filled out a quotation waiver before within the University.

But you wanted to, you wanted to ensure that that payment was made. Correct?---Well we actually selected a candidate so it had to be made.

Sorry?---We selected a candidate so it had to be made if we wanted to employ the candidate that we actually picked.

40 Where was the contractual term between the Sydney University and Succuro that obliged you to pay a placement fee?---I, I'm not sure.

Was there an overarching contract between Succuro Recruitment and the University of Sydney that obliged you to pay a placement fee?---It's just standard industry practice. Mr Hunt wasn't the first person that was actually employed using this method. Other people within ICT were actually employed using exactly the same method.

But where was the contractual obligation to pay it?---I have no idea. I

sought advice from HR, Sydney Recruitment and Finance. I was informed that, that I could go out to market because we'd gone through the first rounds. I was informed that I could actually do that. And when I discussed it with finance, they actually said, that yes, it's, it's possible. We have, we have done this in the past before. And it's not something that I would have taken upon myself to say I want to go out and hire a contractor now. I definitely would have discussed with my, with my manager and informed him of what we were doing.

10 Did you – you didn't put forward a statement prior to the appointment of Gerard Hunt that one of the costs to the University would be a placement fee of some \$15,000 did you?---I – no I didn't but I didn't even realise that that was a requirement.

Well there was no contractual requirement was there?---No.

You could have refused to pay it?---But why would we do that, we just selected a fantastic candidate through a recruitment agency and why would we do that as a full time employee?

20

Because you didn't have to pay it?---I don't understand your, your, your logic in questioning.

Well, where was your obligation - well, where was it written that you had an obligation to pay a placement fee?---So what else could we have done? Just taken the employee and refused to pay?

30 What was your obligation to pay it?---I really don't understand your, your line of questioning. This is, this is standard industry practice, it's, it's what we would have done, regardless of whether you worked at the University of Sydney, if you actually hired a full-time employee for a recruitment agency you pay, you pay them a placement fee.

Yes. What were the terms, what were the terms of the placement fee? How was, how was it calculated?---It's, it's normally based on a percentage of the, of the wage.

40 What was it in this case?---I believe it was 15 per cent of the wage which was below industry standards.

How do you form, form that view?---Because if you look through the emails I believe in one of the emails and I, I, I definitely recall this, Fang actually states, Fang Zhou from Sydney Recruitment actually states that that is an acceptable figure. It's normally based on a percentage of the overall wage, at a certain level it's, it, it might be 10 per cent but once you actually hit a higher level it goes up by, by percentages.

ASSISTANT COMMISSIONER: I could be wrong but I thought I saw an email from you saying it was a good percentage, do you recall - - -?---No, I don't.

- - - suggesting that it was a good percentage?---No, I don't recall that.

10 But you obviously think that's the case?---I did because initially it was 17 per cent and I requested, I thought it was a little bit high and I asked for it to come down and it was negotiated down to 15 per cent and that's where, where Fang actually - I believe it was, I believe it was Fang and I've definitely seen an email but he actually said that is an acceptable figure.

So were you negotiating with Mr Mylonas?---Initially when we started looking I believe when I, when I personally contacted Mr Mylonas he said he'd get onto it and I think we had a verbal discussion over the phone that it be around the 17 per cent mark and I said that's a little bit high, I'd like you to lower that please if possible.

20 So had you'd already discussed a placement fee before they found Mr - - -? ---Yeah, but I would have done that, Commissioner, with any recruitment agency that I actually contacted.

Well, I'm not asking you about that. I'm saying you're saying you had a discussion with Mr Mylonas that you would pay a placement fee?---Correct, yes, and I believe I actually had that discussion with, with another agency as well regarding exactly the same, the same subject matter.

Yes, thank you, Mr Morris.

30 MR MORRIS: You say this was about - your Honour if you go volume 5 I think it is, page 232, it's the letter of offer. Have you got volume 5 there? Do you see that? He was appointed about December?---Yes.

And the quotation waiver issue was - arose on about 4 May, 2010, page 243. Now, was that negotiation of the placement fee conducted at a time when you knew that both your wife and yourself were owners in Succuro?---I beg your pardon, can you re-ask the question?

40 Was the negotiation of that placement fee or your recommendation for payment conducted at a time when you knew that you and your wife had a proprietorial interest in Succuro?---I didn't know that I had a proprietorial interest in Succuro.

So it was - - -?---The answer's no.

So you're asking the Commissioner to form the view that it just was coincidental?---It wasn't coincidental. Regardless of where I worked I would have acted the same way. I did not, I did not say I need to go out and

recruit a permanent staff member on my own, I wouldn't have made that decision, this is something I definitely discussed with my manager. I would have needed his okay to actually go, go ahead with this.

Well, is it the case that this is another example of you having a detailed working knowledge of the procurement policies of Sydney University, contrary to your evidence today?---Incorrect. This is a case where Sydney Recruitment have actually advised me on what's do-able and what's not and it was, and I was actually told by them that I was allowed to do this.

10

You see, Mr Demiralay, you would agree that just looking at the objective facts, right, putting your knowledge to one side, if you were a proprietor or a part-owner- -?---Ah hmm.

- - -and your wife was a part-owner- -?---Ah hmm.

- - -in Succuro Recruitment and you were diverting work to that company in your position as manager at Sydney University- -?---Ah hmm.

20

- - -that would be a clear conflict of interest, wouldn't it?---Based on what you just said, yes, but I was not aware that I was a proprietor.

I've asked you to put your knowledge to one side?---Yes.

And indeed it would be directly, such conduct would be directly or indirectly providing a financial benefit- -?---Ah hmm.

- - -to either you and/or your wife?---Under those circumstances, yes.

30

And whether that benefit arose by reason of the payment of a five or \$600 a week wage to your wife, that would be a benefit, wouldn't it, by Succuro, a financial benefit?---Under the- - -

MR GIBSON: I object, Commissioner. Again we're in the, what Counsel is trying to do is to put scenarios to him that don't involve the witness's knowledge. Now, that's a matter of really your role, determining what those things are or are not in my submission, and not comment by a witness.

40

ASSISTANT COMMISSIONER: I understood the witness did know that his wife was receiving \$500 a week?

MR GIBSON: He knew that.

ASSISTANT COMMISSIONER: Well, I think it's just being put to him that that was a benefit to her, which may be self-evident.

MR GIBSON: But it's in the context of whether he knew that she, putting aside the knowledge issue about his involvement in the various entities of

Succuro, in my submission it's not relevant for this witness to be giving his opinion on that.

ASSISTANT COMMISSIONER: What do you say, Mr Morris?

MR MORRIS: It's about, it's about benefit. It's not about knowledge. And he is a manager.

10 ASSISTANT COMMISSIONER: I don't think it's unfair to ask him his view on this issue about whether it was a benefit.

MR MORRIS: You would consider, you would have considered that a benefit, wouldn't you?---Under the hypothetical situations that you raise, yes.

Yeah. And if it was also the accumulation of cash within the Succuro Recruitment Pty Limited company or I-Secure- - -?---No idea, don't know anything about I-Secure finances.

20 But if it was an accumulation of capital to which the shareholders would be entitled to have access, that would be a financial benefit as well, theoretically?---I'm not, I'm not a company holder so I can't really answer that question. It may or it may not be.

Well, you're not now, are you?---No, I'm not.

Thank you.

30 ASSISTANT COMMISSIONER: Thank you. Yes, now does anybody else wish to question Mr Demiralay? Yes, Mr Gollan.

MR GOLLAN: Thank you. Mr Demiralay, I act for Mr Pigot. I just want to ask you a couple of questions (not transcribable) covered by my learned friend. You within the University and indeed in other jobs that you've occupied - - -?---I'm, I'm sorry, I can't hear you properly.

Within the University - - -?---Yes.

40 - - - and other positions in other companies that you've occupied - - -?---Ah
hmm.

- - - you've had people underneath you in the hierarchy. Correct?---Correct.

And you've sought to manage them in the functions of that particular employer. Correct?---Correct.

And in so doing you have relied upon them to execute their duties honestly and to report to you honestly about such execution. Correct?---Correct.

And you understood that whilst you were employed at the University that both before Mr Pigot came and after he came that the person to whom you reported relied upon you to tell them the truth about what was going on with respect to your activities and the discharge of your duties. Correct?

---Correct.

10 And you understood that Mr Pigot when signing off on the acquisition of staff or resources that when you brought the form to him that he was from your observation relying upon you to tell him the truth about the content of that document and the process by which you proceeded to formulate the document. Correct?---Correct. Mr Pigot was very thorough in going through the paperwork, yes.

And on occasion Mr Pigot had asked for some of the notes and documents from the interviews to be brought to him so as he could have a look at the process that had been gone through. Correct?---I believe on most occasions, correct.

20 And - - -?---That included a copy of the CV, interview notes and all the paperwork, and all the paperwork, yes.

Well the interview notes were something that you'd been asked to provide Mr Pigot on various occasions. Correct?---Correct.

30 And you relied upon Mr Tsipidis to make documents available to you either in draft form or final form when such a request was made. Correct?---I actually relied on, on everyone that was actually on the panel and, and one person would compile it and that would probably be Mr Tsipidis, correct.

And in compiling the documents he would make them available to you in a draft form for you to consent to the content or otherwise amend. Correct?---Correct.

And in so doing with respect to Gerard Hunt - - -?---Ah hmm.

- - - there was in fact a request made for the interview notes to be made available to those above you. Correct?---I believe so.

40 Do you – can Exhibit 33 be made available to Mr Demiralay?---Cheers.

Just before you turn it up, there was an interview that you undertook with, with some members of the ICAC. Correct?---Yes.

And that was in the company of your instructed solicitor, Mr Gibson. Correct?---Yes.

And that was conducted on 25 March, 2011, I'd have you accept?---Yes, it should be thereabouts.

And as at that time you reported to the investigators that were interviewing you that at that stage you had a budget of around \$4 million?---That was an estimate, but, yeah. It may be, it may have been less, it may have been more. I'm not - - -

10 It may be a little bit less, it may be a little bit more, but certainly many millions of dollars. Correct?---Correct. And I came under budget every year.

And those many millions of dollars that you were entrusted within your budget were for the acquisition of staff and resources. Correct?---Correct.

And that it was a significant component of the budget being the acquisition of staff and resources. Correct?---Correct.

20 And that was in turn a significant part of your role within the University. Correct?---I never would have envisioned that to be that, that way, but yes, when I first started.

Forgetting about what you envisaged- - -?---Yep.

- - -the fact of the matter is that when you undertook the employment it became apparent that one of the significant roles that you had was the acquisition of staff and resources. Correct?---Correct.

30 And that whilst it was left to you to acquire the staff and resources, ultimately it was the University that was employing those people. Correct?---Correct.

And the University put in place systems and checks so that they were fair and so that the best candidate was acquired. Correct?---Correct.

And you understood that the process that the University put in place was a practice so as to promote the openness, competitiveness and application and appointment on merit base. Correct?---Ah hmm.

40 Correct?---Correct.

And when you told the Commission earlier, questions of my learned friend with respect to that it was all becoming a bit too much and you were exasperated, you understood, regardless of your exasperation, that those systems and checks had been put in place because ultimately it was the University that was employing the person or acquiring the asset. Correct?---Correct.

And you understood that was part of your job. Correct?---It became my job full time, yes, correct.

And the documents that have been made available to you, they start, do they, at page 147 in the top right-hand corner?---148, oh, 147, correct, yeah.

Could you turn to pagination 254, please?---Ah hmm.

Can you see that this is an email from Mr Tshipidis to you?---Yeah.

10

And can you see that he says at paragraph, well, firstly he attaches the combined interview notes. Correct?---Ah hmm. Yes.

And then that apart from the behavioural section- - -?---Ah hmm.

- - -we've asked five of the 14 questions that appear. Can you see that?
---Yes.

20

And I take it that it was best practice as you understood to ask all of the questions. Correct?---Ah, no, this is in a different context. We actually had a regime of a selection of behavioural questions. The, the questions that George is actually referring to here are questions that I actually ask in addition to the normal questions that are actually asked.

30

Correct. And those that are in addition, is it an expectation that you would ask a significant number of the 14 that are available?---No, it, it wasn't based on, none of these questions actually had to be asked. These, these were more along the, these were more along the lines of technical questions and questions that I actually personally had, but I believe that Gerard Hunt actually interviewed very very well and answered all the behavioural questions as required, so, and then we normally pick half a dozen or so questions from another range of questions that I put in place.

What did you understand Mr Tshipidis to be asking when he said, "Are you happy with all of that content?"---Oh, I presume what he's actually asking there is whether the content that everyone else, well, from there I understand that he's probably asking about am I happy with the notes that I actually took.

40

Are you happy with them being full and wholesome?---Yes.

Do you understand him to be asking that?---Yep.

And you understood that he was asking you that because there was someone above that was asking to look at these notes. Correct?---Well, yes, but maybe not in the context that it's actually written here.

What do you mean, not in the context of what's written here?---Because if I recollect correctly, one of the individuals that was interviewed for the position originally was a gentleman by the name of Steve Kokkinis and he actually applied for a role in my space, well, for this particular role and he actually applied for a role in one of my peer's areas as well and he was unsuccessful on both occasions and he actually raised, he actually raised complaints and HR actually got involved and we were actually requested to provide all the interview notes and everything else. So, so what we were doing here was being, being I guess, I guess cautious because Kokkinis had
10 actually escalated a report, a complaint, and I actually had a discussion with, myself and I think, I believe (not transcribable) actually had a discussion with HR as well about it.

Did you understand that what he was asking you was are these notes sufficient for them to be produced to those who are requesting to look at them?---Well, yeah, but I guess he would have asked that in every, in every interview.

And can you go to page 215 please?---Yes.
20

And you see that this is a message to you from Mr Tshipidis?---Correct.

And that he's proffering a draft version?---Ah hmm.

Can you see that?---Yes.

And was it the practice that he proffered you a draft version rather than just produced the notes that were produced at the interview?---I don't really know what he means by draft version here but I'm pretty sure that with TL
30 roles the buck stopped with me so I would have reviewed all the paperwork to make sure that it was in order.

Was it the practice that you took notes whilst undertaking the interview?
---Yes.

And when you were asked for the notes from the interview - - -?---Ah hmm.

- - - was it your practice to add to those at a later date?---No.

40 No. So you don't understand why he'd be proffering you a draft version of that rather than the actual notes that were produced, correct?---Well, this would be not just the interview notes, it'd be a whole range of paperwork that actually went along with the interview notes.

Do you understand why he was proffering a draft version?---Yeah, because it was probably for my, my review.

We'll move on. You kept my, our, statement deliberately simple. Can you see that?---Yes.

And he says "especially due to the fact that there have been some post-interview issues"?---That's correct.

And those post-interview issues were what?---That was the Steve Kokkinis incident that I just actually mentioned.

10 What did you understand the benefit of keeping the statements deliberately simple?---I don't know.

Well, did you take that up with him?---No, I believe I didn't.

You see, if someone that was below you in the hierarchy was doing the wrong thing you'd pull them up, wouldn't you?---Ah, correct.

20 You understood that what was expected of you by your managers and their managers was that if you were aware of someone below you - - -?---Yeah.

- - - doing the wrong thing that you'd pull them up on it, correct?---Correct.

And you understood that the reason for these documents or the creation of these documents at the time of interview was that so there was a contemporaneous note, correct?---Correct.

And that it was available to someone either above or when someone made a complaint to audit them, correct?---Correct.

30 So that they could seek or that the world at large could see the practice was open, competitive and based on merit, correct?---Yeah.

You understood that at the time didn't you?---Yes.

And you understood that not only was it wrong to contribute things to documents at a later date - - -?---Ah hmm.

40 - - - but it was also wrong to deprive those above you, those above you of information, correct?---Correct.

So an omission is something that if someone below you was to participate in so as to deceive someone looking at the document, you'd pull them up on it? ---I would and, and considering that I haven't actually pulled him up on it I must have been happy with the paperwork.

Well, you'll note that firstly he asked whether or not you'd like to amend the document?---Yes.

That the contemporaneous document from the interview is it?---That's right because there's three people taking notes all at the same time and if I believe that anything was actually missed during that interview process I'll actually add my comments to it as well.

Right. You certainly wouldn't permit him to omit someone because they hadn't been interviewed according to protocol, would you?---No, no.

10 You wouldn't let him do that, would you. And you'd pull him up in writing with respect to such an omission so as to tell the world at large that you'd have done something about it, correct?---Not necessarily in writing, it could have been a phone call, it could have been a meeting.

Do you know (not transcribable) that the note that he sent you there, "Below please advise if you'd like to amend I left out Peter Smeros from the last section - - -?"
---Yeah.

20 - - - as he was not on the official distribution list provided by Sydney Recruitment"?---Yes. That's in context to - - -

So as to satisfy yourself if you can just have a look at the draft document that he then makes available?---Yes.

Indeed Peter Smeros has been omitted. Correct?---That's, that's in regard to a different topic. That's, that's just a note on something completely different. That's not relevant to, to, to the above, no.

30 The interviews other than Gerard's - - -?---Ah hmm.

- - - the interviews were conducted with persons that had all come through Sydney Recruitment. Correct?---Yes.

And indeed there was a lady from Sydney Recruitment participating in those earlier interviews that later didn't participate in Gerard Hunt's. Correct?
---Correct.

And that was for the team leader appointment position. Correct?---Correct.

40 And you understood that the list distributed by Sydney Recruitment was a list to be pursued with respect to short listing and then performing and undertaking interviews (not transcribable) to Mr Gerard Hunt that arose by an exterior application. Correct?---Correct.

Are you telling us that when he says there, note I left Peter Smeros from the last section, I left out Peter Smeros from the last section as he was not on the official distribution list provided by Sydney Recruitment, that that has no reference to the document that he encloses with his email where in the last

section he tells us or the document tell us at page 219 the persons that were interviewed and the persons that failed to make the cut on the shortlist, are you telling us that Mr Smeros' contribution to this document is – being the email has nothing to do with the document that was enclosed, attached and otherwise bore the whole subject of discussion?---Yes, that's what I'm telling you. It's in, it's in regards to something else. Peter, Peter actually wasn't, wasn't even involved in the interview.

10 You sought to have Peter elevated to a position of team leader. Correct?
---At a later date, yes.

Well this was in December, come January that's exactly what happened. Correct?---That's right.

And indeed if you turn over to page 225 there is a discussion by way of email where you are cc'ing Mr Tsipidis?---Ah hmm. Yes.

Andy Apin?---Yep.

20 And Todd Demiralay?---Ah hmm.

Where there was a discussion about a superior rating - - -?---Yes.

- - - that would justify the appointment. Can you see that?---Yes.

30 And you participated in that discussion about how to bolster Mr Peter Smeros' application for team leader over the period leading up to his appointment in January 2010. Correct?---No. I believe that in January 2010 this was for an acting team leader role. And Peter's - - -

Let's not worry about what you believe, what do you remember?---That's what I remember.

You remember this was for an acting position?---Yes, I'm pretty sure it was for an acting - - -

40 Let's presume that you're correct. You were participating in the justification for the appointment. Correct?---I wouldn't say justification. I was, I was, I was gathering, gathering information because I could put anyone into an acting role but the thing is I would have actually, I would have discussed this with my manager and I'm sure – like my manager is a very intelligent person, he would have actually said to me, well what has Peter done - - -

Let's not worry about what he would have done, I want to know what you did?---I'm pretty sure I did this.

You're pretty sure?---Yeah.

You went to your manager, being my client - - -?---Yes.

- - - and you told him that you were looking at in conjunction with Mr Tsipidis and Mr Apin, you were looking at giving a superior rating to justify an appointment. Is that what you're telling us?---No. No. Because I could have picked anyone for the appointment. It was an acting position. You didn't have to interview, you didn't have to do anything. I could have put anyone in that role I actually wanted to. But - - -

10

You couldn't put Humphrey B Bear in here, all right, you had to put someone in there that could do the job?---Okay.

Correct?---All right. Okay. Now, now you're getting off the topic but- - -

And you were participating in justifying that appointment. Correct?---No.

Did you say anything or did you send a note back to Mr Tsipidis saying, what do you mean, justify the appointment, we don't do that kind of thing if we're participating in our employment contract loyally?---It's an acting position.

20

And it didn't matter?---It's an acting position, right, and, and the thing is, I actually had an open relationship with my manager and, and if we had a discussion about it, he would have wanted some idea of why Peter Smeros was actually selected. And you can actually see in here he got nomination for customer service, that was an annual award, right, so when we were actually doing PM and D's, I actually reviewed PM and D's at the end of the day and I tried to justify why my team leaders have actually given their, their, their staff certain scores.

30

You didn't forward these emails on to Mr Pigot, did you?---No, I didn't.

No?---There was, there was a lot of emails I wouldn't have forwarded on to Mr Pigot, otherwise he would have, he would have received hundreds of, hundreds of emails from me a week.

You didn't forward this on because as far as you're concerned, that if you'd chosen, along with Mr Apin and Mr Tsipidis to put Mr Smeros in that position, that was the end of it. Correct?---No. But to answer your previous question, if Humphrey B Bear had worked at the University and I wanted to make him an acting role, I could put him in an acting role.

40

Yes, subject to him actually performing?---Exactly.

And in circumstances where he doesn't perform, that would come down on you?---Exactly, because I wanted to build a team of competent people around me.

And subject to someone from the outside looking in, seeing that the process was transparent and the process was based on merit. Correct?---It is, it is based on merit, correct.

10 And what was being suggested here is a superior rating for client focus because that would increase the meritorious nature of such an, of such an applicant. Correct?---It probably would have helped, but in reality and Mr Smeros was an exceptional employee, we had customer feedback to verify that, which was actually forwarded to, to, to all other people, so it wasn't just a one-off. And I believe that he actually merited and earned that SU.

Can you go back to the 215 page, and can you tell this Commission what it is that you're able to tell us about the note leaving Mr Smeros?---I'm not sure what that's in relation to, but like I said, it doesn't fit in with the rest of the email. I can't recollect, but to me it looks like it's in regards to something else, not Gerry Hunt's placement.

20 Would you agree that the whole of the email otherwise refers to the process of Mr Hunt's appointment?---Yes.

Would you agree with me that the whole of the document that's annexed is also with respect to Mr Hunt's appointment?---I really can't say that from the email because he, he actually says, "Please advise if you'd like to amend", and then he goes onto a note and then to an also and then to your thoughts.

30 Would you agree that the whole of the annexure is with respect to the process proceeded upon for the appointment of Mr Hunt?---So when you say annexure, are you talking about the attachment?

Yes?---Yes.

You're able to sit there on oath- -?---Yes.

40 - - -and say that the most damning part of the email, if we are to accept it's got anything to do with Mr Hunt's appointment, is something quite remote that you can't tell us what it's about?---I don't know. I can't. "Note, I have left out Peter", no, I don't know what that's in context to, but if you read that email it doesn't fit into the rest of it.

Well, what official distribution list does Sydney Recruitment provide other than for the interview and/or appointment or culling of applicants for a role within the University?---I'm sorry, I didn't, I didn't actually heard you. I thought you were talking to someone else because you were facing the wall.

ASSISTANT COMMISSIONER: Mr Gollan, I understand the point you're making on this issue but I really think enough time has been spent on it.

MR GOLLAN: If the Commissioner pleases. You understood did you that part of the process of, of recruitment was in pursuit of the goals of it being open, competitive and based on merit was that you would interview more than one person for most of the roles?---Yes. Yes.

And that you would pursue more than one agency for the placement of persons or otherwise for the production of resumes?---Wherever possible, yes.

10

And that it was most desirable that they come from a variety of agencies. Correct?---Correct.

And you wouldn't participate in the amendment of a document that may at a later stage be audited, you wouldn't participate in the amendment of such a document so as to reflect something other than the truth would you?---No, not intentionally, no.

20

Well you wouldn't accede to a request that you include someone's name on the formal documents that hadn't been considered or interviewed would you?---Could I have the question again? And I apologise but you need to face me when you're talking to me - - -

You wouldn't consent - - -?--- - - - because I can't, the microphones - - -

You wouldn't consent - - -

30

MR GIBSON: Well I object. The witness (not transcribable) requests and Mr Gollan keeps speaking over him.

MR GOLLAN: Because I have acceded to the request. And I don't blame my learned friend unless he's got eyes at the back of his head. Now you wouldn't consent to the inclusion of someone in an interview document that wasn't interviewed or otherwise considered would you?---No, not intentionally, no.

You certainly wouldn't think that it was a great idea would you?---No.

40

And you certainly wouldn't prepare yourself to lie if asked about the content of a document generated or otherwise created in reference or with respect to an interview process would you?---No.

And whether or not someone goes through all of the documents in this case is really not to the point, but rather as a matter of practice and integrity you would never ever think it was a great idea to include someone on a document when they hadn't been interviewed or otherwise considered would you?---Not intentionally, no.

And if it was suggested to you, you would disabuse such a practice wouldn't you?---Correct.

Correct?---Correct.

10 And if it was suggested to you that it could either be the inclusion of someone as being unsuccessful in the paperwork – I'll withdraw that. If it was suggested to you that the inclusion of someone as an unsuccessful candidate in the paperwork, if that was suggested to you if you acceded to that request you would agree would you that it couldn't be said that your acquiescence was unintentional could you?---Could you rephrase the question, please?

If someone asked you to do something and you knew it was wrong but you agreed to do it, it couldn't be said that it was unintentional?---Correct.

Correct?---Yeah.

20 Turn to page 156, please. Let's have a look at the email from Mr Tsipidis?
---Ah hmm.

Let's have a look at the email from Mr Tsipidis?---Ah hmm.

“What's the situation with Marios and Peoplebank”?---Yeah.

“Also as a suggestion I would include Sam Sekuloski as one of the unsuccessful candidates in our paperwork et cetera but he is not from another agency!!”?---Ah hmm.

30 “We could got a typo or oversight?” You understood that what Mr Tsipidis was suggesting was that Sam be included as an unsuccessful candidate despite the fact that he wasn't a candidate, correct?---He was definitely a candidate, he was actually interviewed in my office.

Well, the Tarundeep Singh position, he was not a candidate, was he?---I'm not sure about the Tarundeep Singh one but I can tell you now that Sam Sekuloski, that, that he was definitely interviewed, he was, he was definitely interviewed.

40 We're talking about this. Once you're interviewed for one job you don't find yourself on every document, do you?---No.

And you as the author or the person signing off on that document - - -?---Ah hmm.

- - - if you knew that that person wasn't included or wasn't part of that interview process you also know it's wrong to include them, correct?
---Which person are we talking about?

Any, any person.

MS McGLINCHEY: Excuse me can I just ask if Mr Gollan's putting it as a matter of fact that he has instructions that Sam, with the Polish name, was definitely not interviewed for any, for a position which this email, that this email can relate.

10 MR GOLLAN: I can take you to the transcript of Mr Tsipidis agreeing to that proposition.

ASSISTANT COMMISSIONER: Yes, there's evidence from Mr Tsipidis and I understand this witness agrees, he's not saying he was interviewed for this position, you, you don't know that he was interviewed for the Tarundeep Singh position do you?---I'm not sure, Commissioner, but he was definitely interviewed, I do, I do recall that.

20 Well, yes, but look, you understand what's being put to you. Why would he, if he was interviewed why would he say I suggest we include him as one of the unsuccessful candidates?---I'm not, I'm not sure, look, that's back in March 2009.

Well, that's what's being put to you and - - -?---I'm not sure. I can't, I can't recall. I don't know, I don't know if, we're, we're even just mucking around there, I don't, I wouldn't have a clue.

30 MR GOLLAN: Well, I ask the next logical question, we could go for a typo or oversight, what did you understand that to mean?---I don't know. I don't, that's what I mean, I don't know if that was a funny or, or George was trying to be funny and I, and I'm just saying yeah, great idea and going, and going along with it. I'm not sure.

Well, you've read the next email, great idea, talk to you shortly about Marios?---Yeah.

40 Now, you know that there was a problem with Marios and, and Peoplebank at the time, correct?---I don't know if it was in this, I'm not sure if it was in this situation here. From recollection Marios was actually quite new to Peoplebank and, and I'd actually met, he actually called me and I'd actually met with him so I'm not exactly sure but one of the, of the other reasons why I actually met with Marios, because I was actually looking for a new position myself and I think, I think that's what that's in context to.

Turn the page?---Yeah.

Marios, Peoplebank?---Yeah.

Now turn back to page 154?---154.

Can you see that's 16 March?---Yeah.

Righto. The other emails we just looked at were 17 March?---Yeah.

And George is asking you "How do I handle CVs from Peoplebank? Not sure of expectations on both sides with this one"?---Yeah. That was because there was an issue with one particular person who started with us and then just left and we were left in the lurch.

10

So the day before you're identifying with George some problems - - -?
---Yeah.

- - - with the placement or otherwise of suggestions from Peoplebank, correct?---Yeah, yeah.

And does that now indicate to you that the content of the emails at page 156 are not funny but rather are a true exchange between the two of you - - -?
---No.

20

- - - about how to put together some documents but also what to do with Peoplebank?---No, not really, no.

And that when you say it's a great idea you will talk to him shortly about Marios - - -?---Yeah.

- - - given the content of the email that's been addressed to you is about Marios and then otherwise the inclusion or typo or oversight, that the great idea is with reference to that second paragraph, correct?---I, I can't recollect, I really can't.

30

And that talk to you shortly about Marios is with respect to the first paragraph, correct?---I'm not sure, I'm not sure, I'm not even sure where Sam Sekuloski, which agency he actually came from.

What I put to you is that you – despite the evidence that you've given you knowingly and willingly participated in the creation of documents for those above you to observe that were not truthful and didn't reflect those persons who were participating in those interview processes?

40

---I disagree with you.

And then if you were pulled up about it, plan B was to say that it was a typo or alternatively that there was some kind of mistake, an oversight?---No, I disagree.

And that you were concerned at the time that Sam was from Succuro and so there wasn't an even distribution of employees or resumes from the agencies available to you?---Disagree. I kind of recall remembering Sam because he,

he turned up for the interview in a very strange hat and he was dressed very inappropriately for the position. That's how I sort of recall him, what I believe.

Just one other topic. This signing of the share certificate and if it can be turned up, it might be easier to work off – I'm looking at Exhibit 41. You'll see there's some numbers at the bottom of the page on the annexure?--- Yes.

Page 16 is a discretionary trust order form?---Yes.

10

Can you see that?---Yes.

I just want you to have a look at a few dates. The bottom of that is 18 July, 2008?---Yes.

If you turn over the page you were going to participate – well on that page as well as turning over the page you were going to participate in that trust. Correct?---According to the paperwork, yes.

20

And you hadn't been involved in any other position of trustee before this? ---No. No.

Had you held shares or share certificates in any companies before this?---I did but they weren't, they weren't purchased by me, they were actually allocated to me as an employee.

And if you turn the page over to page 48, this is the consent to act as secretary of your wife, 19 August, 2008. Do you see that?---Yes.

30

And if you turn the page there's a document that my learned friend took you to, that's the agreement/consent of members to take shares in Succuro - - -? ---Yes.

- - - 19 August, 2008?---Ah hmm.

And then if you turn the page the document headed, Share Certificate - - -? ---Ah hmm.

40

- - - right, just pause there for a second, you're not suggesting that you didn't understand that you were being issued some shares when you signed this are you?---No, I didn't, I didn't.

MR GIBSON: I object to this question. I object.

MR GOLLAN: I withdraw the question.

MR GIBSON: Relevance to his client's interest.

ASSISTANT COMMISSIONER: Yes, that's true.

MR GIBSON: Execution of these documents.

MR GOLLAN: It's the level of deception that my client was labouring under and this witness has got in the box and said that he's the one that's been deceived. With respect I'd like to shed some light on that if I may. And I'll only be another five minutes.

10 ASSISTANT COMMISSIONER: Yes. If you're quick.

MR GOLLAN: The document is dated 19th of the 8th, 2008. Can you see that? Above your wife's signature, date?---Yes.

You understood that the trust document was being attended to through the accountant. Correct?---It was being attended to by my wife.

You understood that she'd had discussions with an accountant. Correct?
---Correct.

20

And that the accountant had given her certain advice and as a result you were going to execute and become – execute a trust deed and become a trustee. Correct?---I didn't even know what a trust was, correct.

You understood that you were signing something that's called a trust deed and that you had become a trustee?---I understood that I was, I was signing a trust.

30

Right. And you understood that that was being arranged through the accountant. Correct?---I assumed that, correct.

And you understood that the registration of whatever company it was was also being arranged through the accountant. Correct?---I could only assume that, correct.

40

And did you understand when you were having this conversation with your wife that you had to sign the share certificate and also the agreement or consent to take the shares, did you understand that you had to, had to sign those documents so that the company could be registered?---No.

Did she say to you, you have to sign these documents and I have to return them to the accountant so that we can get the company registered, or words to that effect?---Not to that effect, she actually, she just, she just asked me to sign the documents because it's what the accountant actually recommended and, and, and from that point I would assume they'd go back to the accountant.

And you understood that they were going back to the accountant whereby the company that she'd been talking to you about was going to be registered. Correct?---Yeah.

Now, can you go back to page 46?---Yep.

19 August, 2008?---Yes.

10 That's the same day that all of these other documents were signed or the same date?---Yes.

Are you sure that you signed the documents sometime late in the evening rather than signing them in the morning so they could go off to the accountant for the company to be registered?---I'm one hundred absolutely positive that it was in the evening.

20 And is there, I'll withdraw that. Do you know whether or not or are you able to tell us who it was that you were out drinking with that night?
---No idea.

But you're one hundred per cent sure that's when you signed the documents?---Yes.

And you understood those documents were a prerequisite to the registration of your wife's company?---Yes.

And you understood that- - -?---As advised by her accountant.

30 And you understood that she was registering and participating in the activities of that company?---A company, yes.

At that time?---Yes.

And that it was a recruitment company?---No.

And that she worked at Succuro at that time?---As a part-time employee, yes.

40 And she didn't work anywhere other than Succuro?---No, she was a mother.

And she didn't perform any other activities that you were aware of or that was evident to you other than her work at Succuro?---Correct.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thanks, Mr Gollan. Yes, Mr Chalmers?

MR CHALMERS: Commissioner, I only have a very few questions and I thought that if I could ask them now- - -

ASSISTANT COMMISSIONER: Yes.

MR CHALMERS: - - -then I might not need to come back tomorrow.

ASSISTANT COMMISSIONER: Yes. You'll have to just come forward to somebody's position.

10

MR CHALMERS: Sir, I act for Mr Passe-de-Silva?---Correct.

I just want to take you back to an interview that you were part of when my client applied for team leader desktop support?---Yes.

And you were on the selection committee with Mr Angelopoulos and Ms Malapetsas?---Yes.

20

Do you, you previously worked with my client. Is that right?---Correct.

Do you recall that interview?---Vaguely, yes, I do.

Do you recall that my client advised the panel that he had previously worked for you?---Yes, I recall.

30

And he recalls that you told him when he declared that at the selection committee meeting that you advised him that you had already advised the other two selection members. Do you recall that?---I believe I may have, I'm not sure, but I definitely do remember Mr Passe actually saying that during that, the meet and greet. As soon as he walked in we actually exchanged a bit of discussion around it, yes.

Right. That's all my questions.

ASSISTANT COMMISSIONER: Thank you, Mr Chalmers. If there's anybody who will only be a few minutes?

40

MS OAKLEY: I can't say that I would just be a few minutes but probably no more than 10.

ASSISTANT COMMISSIONER: Yes. Is that all right with you, Mr Morris?

MR MORRIS: Certainly.

ASSISTANT COMMISSIONER: Another 10 minutes?

MR MORRIS: Certainly.

ASSISTANT COMMISSIONER: Yes?

MS McGLINCHEY: Commissioner, I would also like to ask some questions but I'll be probably about 10 minutes.

ASSISTANT COMMISSIONER: Yes, I just understand there's, we can't sit late.

10 MR MORRIS: I'm happy to sit until half past if necessary.

ASSISTANT COMMISSIONER: All right.

MR MORRIS: If it's convenient to the courts.

ASSISTANT COMMISSIONER: Well, I, yes, I mean I must say that, I mean there doesn't seem to be any prospect of actually finishing unless you don't have any re-examination?

20 MR GOLLAN: I'll have some questions. I expect to be very short.

ASSISTANT COMMISSIONER: And you- - -

MR GOLLAN: And I expect Mr Morris might have some questions.

ASSISTANT COMMISSIONER: Yes. So I, yes. Well, there's no prospect of finishing but we will do Ms Oakley and Ms- - -

30 MR McILWAINE: I'll be very short, Commissioner. I'll finish by 4.00, 5 past at the latest.

ASSISTANT COMMISSIONER: Oh, Mr McIlwaine, you are, you are tempting me- - -

MR McILWAINE: But tomorrow's fine, it doesn't worry me.

ASSISTANT COMMISSIONER: - - -with the shortness of your questions. Yes. Well, it might be best if you do go, Mr McIlwaine, if you're going to be very short.

40

MR MORRIS: Just before he does I have one question the (not transcribable) have long asked me.

ASSISTANT COMMISSIONER: Yes.

MR MORRIS: Mr Demiralay, when you, when your employment – you left your employment - - -?---Ah hmm.

- - - you handed your laptop computer in or your computer in?---Yes.

Was the hard drive – did you – was the hard drive intact when you handed the thing?---Yes, it was.

You hadn't destroyed or sought to wipe the hard drive?---No. No.

Okay. And that's the last - - -?---But I did, I did actually see that, you got in the paperwork I left on 10 June, so - - -

10

2011?---That's right.

Yes. Thank you?---And that's, and that machine was actually looked at in November.

Thank you.

ASSISTANT COMMISSIONER: Yes. Yes, Mr McIlwaine.

20 MR McILWAINE: Mr Demiralay, in regard to the placement fee paid for Mr Hunt - - -?---Ah hmm.

- - - sorry, paid in relation to the recruitment of Mr Hunt - - -?---Yes.

- - - you were asked some questions by Counsel Assisting about whether you'd seen any contract requiring that to be paid?---Ah hmm.

Correct?---Yes.

30 When you signed the requisition for payment of that money that was initially rejected because two reasons, one it might be outside your delegation. Correct?---Correct.

And two there was a requirement for a quotation waiver. Correct?---I think they go hand in hand I believe.

All right. Now that was raised with you I think initially by Ms Torres?
---Yes.

40 Correct?---Correct.

And the payment had to be signed for by Mr Pigot. Is that correct?---Yes.

Because it was outside your delegation. Correct?---Yes.

Did anyone ever raise with you at that time any question about where's the contract, where's the contractual obligation to pay this money?---No.

And the second issue I want to ask you about is you were asked some questions about the rate paid to contract employees as against the rate, the cost of employing a full-time employee?---Yes.

In regard, and there's a differential in those rates, correct?---Ah hmm, correct.

10 But if a full-time employee is employed they have to be paid on top of their wages sick leave, correct?---Fifteen days per year.

Annual leave?---Four weeks per year.

And worker's compensation?---I'm not sure about worker's compensation.

Superannuation?---Yes, 17 per cent.

Okay. And they're all extra costs that are not paid in the case of the contractors, correct?---They're not paid as part of a contract, no.

20 They're all bundled into the hourly rate?---That's right.

And additionally is it much more flexible to employ and get rid of a contractor than an employee?---One hundred per cent, it's almost impossible to get rid of a permanent employee.

30 So it gives the University more flexibility to meet short-term demands of work for example?---Well, correct, and as I said earlier, this was all about securing temporary staff until the University had actually finished the centralisation process.

And there was a particular need at this time because of the merger of the IT section of various faculties to ICT, is that - - -?---Yes, a very big, a very big demand when you consider the, the growth experienced in a very short amount of time.

Thank you, Commissioner.

40 ASSISTANT COMMISSIONER: Yes, thank you. Do you want to go now or wait till the morning, Ms Oakley, I'll leave it to you?

MS OAKLEY: I'm happy to go in the morning.

ASSISTANT COMMISSIONER: Yes. All right. All right. Mr Morris, I understand we want to start slightly later tomorrow morning, is that correct?

MR MORRIS: If at all possible, quarter past 10.00.

ASSISTANT COMMISSIONER: 10.15.

MR MORRIS: Yes.

ASSISTANT COMMISSIONER: Yes. All right. Well, look, we'll adjourn at this time and we'll resume at 10.15, thank you.

AT 4.04 PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.04PM]