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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 20 MARCH 2012

AT 10.05 AM

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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. This is a public inquiry being conducted by the Independent Commission Against Corruption. The purpose of this inquiry is to investigate allegations that Mr Todd Demiralay, a University employee, and persons associated with him engaged or recommended the engagement of contractors or staff for the University from Succuro, a business in which his wife was involved, and later from Succuro Recruitment, a company in which Mr Demiralay and his wife both had an interest, engaged or recommended the engagements of certain contractors and other staff for the University due to personal
10 associations with those persons and improperly manipulated the recruitment process to engage or recommend the engagement of certain contractors or staff for the University or to justify the engagement of certain contractors or staff. Mr Jeremy Morris has been appointed as Counsel Assisting the inquiry and he will further outline the general scope and purpose of the inquiry in his opening address. Thank you, Mr Morris.

MR MORRIS: May it please the Commission. As has just been outlined, this Commission is investigating the use of a personnel recruitment agency known various as Succuro or later as Succuro Recruitment Pty Limited by a
20 senior manager at the Information Technology Centre, otherwise known as ITC, at the University of Sydney between January 2007 and May 2011. The primary focus of this inquiry is whether Mr Attila, also known as Todd Demiralay, who was a senior manager with delegated expenditure authority engaged in a course of activity that procured a financial benefit to either himself or indirectly via his wife by using his position at the University to engage or recommend the engagement of contractors through Succuro which at least after mid 2008 was a business in which he and his wife had an interest.

30 If he knowingly engaged in that conduct he was at least in breach of University policies in failing to disclose a conflict of interest to his employer and that failure may be grounds for disciplinary action or dismissal. More seriously it was conduct that could also amount to the commission of the common law offence of misconduct in public office. It would then be open for this Commission to find that Mr Demiralay engaged in corrupt conduct pursuant to the Independent Commission Against
40 Corruption Act as his conduct constituted the dishonest or partial exercise of his official functions and could involve the commission of a criminal offence, a disciplinary offence or grounds for his dismissal. As a matter of record Mr Demiralay was a public official within the meaning of the Act.

I'd like to outline some broad features to the Commission. The University of Sydney is established under the University of Sydney Act and is a public authority within the meaning of the Independent Commission Against Corruption Act. The University is a vast and complex organisation that has a range of managerial and administrative issues that have developed over recent years, primarily as the organisation as grown and the information technology issues have developed.

It has a number of work places that are remote to the main campus at Darlington. It does have a need for flexibility in employment and utilises a large number of independent contractors and casual staff as particular projects develop. The University requires flexibility in management and many, many University managers have delegated authority with regard to expenditure. It's accepted that if there are too many procedural barriers in the management of this organisation much of the flexibility may be lost and it could become hog tied by bureaucracy. But by the same token it does need protocols and procedures to control its affairs.

10

The University has many tens of thousands of external suppliers on an annual basis and close scrutiny of each and every contract is almost an impossibility. This inquiry does not seek to challenge the University's use of contractors or criticise its desire to have a degree of administrative or managerial flexibility, but it will examine whether these practices contributed to any corrupt conduct that may be found in this matter.

20

Now throughout the relevant period, which is May 2007 to May 2011, they appear to be the essential dates, the University of Sydney had a number of policies that governed employment responsibilities and expenditure of monies. Firstly was a Code of Conduct, this prohibited an employee from using their position to procure a financial benefit to themselves or their relatives outside the terms of their employment. Now this had been a long standing policy and it has been updated from time to time over the years and we'll deal with that in more detail as the inquiry commences, proceeds.

30

There was also a staff recruitment policy that required an open staff selection process. Now that policy only applied to the appointment of permanent staff and there are a number of variations on that process and the use of that policy depending on whether the proposed employee is currently an employee within the University or is otherwise an external person who's been put forward to the position.

40

There was also a procurement policy for the procurement of goods and services under a certain dollar amount. The way in which these policies were formulated, short term casual employment contracts didn't fall within the staff recruitment policy, but they fell within the procurement policy. And finally an anti-corruption policy commenced at the University in 2007, which is within the relevant time for Mr Demiralay's employment.

Now as I've said these policies varied in minor respects throughout the relevant period, but in essence policies of that general effect applied. Now it was expected that senior employees and managers would seek out and read the policies that applied to their job. It was expected that those employees would abide by these procedures. Reliance on a Code of Conduct with the assumption that employees will have read it and having read it actually apply it in their dealings with the University and external people is insufficient to guard against the possibility of corrupt conduct.

The evidence suggests that there was a failing by the senior management of ICT to identify that the policy – that these policies were being breached. Now it may be that the managerial level at the University was an environment of high trust, people expected high trust, people expected that these policies would be applied and probably they couldn't imagine that they wouldn't be applied because it was so central to the essential nature of the managerial process.

- 10 Having said that there was no conflict check of senior managers prior to their employment or on any regular basis thereafter. From 2006 to January 2011 there was no obligation for a manager with delegated authority to disclose their other business interests, their directorships or shareholdings at the commencement of their employment or with any regularity throughout the term of their employment.

Now, in this regard we're not talking about people owning shares in the Commonwealth Bank or holdings or business interests that would not in the order course affect their business decisions. We are looking at businesses
20 which may directly relate on the discharge of their official functions within the University.

Now there was also no practical method within the Finance Department to be able to detect the total expenditure that was spent with any one supplier or whether there was any relationship between the supplier and the manager who authorises or procures that expenditure. Now, without any simple steps at either the engagement stage or at the finance stage, the invoicing stage, to determine whether any conflict existed, conduct that breached the
30 University's own internal policies could go on undetected for years which it will, the evidence will show is what happened in this instance.

Now the allegations are that Mr Demiralay held a senior management position with the ITC and had authority to engage casual contractors at the University. He had financial authority to expend moneys up to \$50,000. In other words he could approve expenditure up to a particular dollar amount without engaging the staff protocols or the procurement protocols. But within this policy and procedure framework, without adequate supervision, the University was reliant on the employees informing themselves of and complying with the Code of Conduct. The University expected that the
40 employees would declare a conflict of interest, perhaps not unreasonably, it was part of their job, and - but on the other hand the University did nothing outside their policies to detect and ensure compliance with those policies.

Now Mr Demiralay was appointed as the field services manager at the ITC in about mid to late - it was actually about October 2006. He supplied a curriculum vitae to the University. Now, one of his referees on the curriculum vitae was a Ms Soula Tshipidis who was the wife of George Tshipidis, a man who was later to be appointed to a management position by

Mr Demiralay. She also happened to be Mr Demiralay's sister-in-law. Now we'll hear from Mr Kovari who sat on the selection panel for the appointment of Mr Demiralay and I expect that this Commission will hear that Mr Demiralay did not disclose to him that Soula Tshipidis was related to him although she was being put forward as a referee for him to procure that employment.

Now Mr Demiralay started his position on about 9 October, 2006. Documents show that Mr Demiralay signed an offer of employment that set
10 out the terms of his employment. As an annexure to that document was a copy of a Code of Conduct. In other words, this was a standard form letter produced by the University with standard annexures. Mr Demiralay may claim never to have had a formal induction to the use of the Code of Conduct but it was annexed to his offer of employment. It was also readily available on an Internet website of the University. Now Mr Demiralay may claim not to have had any detailed knowledge of procurement policies or staff recruitment policies. These too are available on the University's
20 Intranet which is a web-based system that provided administration resources to its employees. Mr Demiralay did know that these were available in this format and it was these policies that Mr Demiralay would have to apply as part of his job that he had been given and which he performed over a four-year period.

Now, this Commission will have to make a finding as to whether and to what extent Mr Demiralay had any working knowledge of these policies. You will either accept his evidence or you will doubt it. The Commission can expect to hear evidence that prior to Mr Demiralay's employment there was a competitive structure for the employment of staff and the appointment of staff recruiting firms. According to Madeleine McCabe, who will be the
30 first witness, it was her recollection that Todd Demiralay himself suggested that the University's ICT should contract Succuro as he had dealt with them in his previous employment and he says they're usually able to provide casual and short-term contractors. Now, that first contact seems to have occurred someplace in early 2007 which is about four months after Mr Demiralay's employment.

Now, at the time of Mr Demiralay's employment there was a major reorganisation of information technology services at the University, there was a consolidation of faculty-based IT departments into one central IT
40 department, and as part of his job he was obliged to provide help desk services during the centralisation process. It is not suggested that this was some small project, it was a major complicated project and it absorbed a great deal of thinking and planning at the University in terms of facilitating this plan. But although it's been requested by investigators, while there's an information technology consolidation plan, it seems that the budgetary considerations were, there was not a total contract price set. What essentially happened was, the people with the task of performing this

centralisation were given an annual budget and they were able to accommodate their expenditure within a nominated budget.

10 Now, as a result, without a total contract price for, for instance, recruitment services, casual employment costs and so forth, a trigger within the University procurements policy that obliged any casual employment contracts to be sent out to public tender were never activated. In other words, after a particular level, assuming the employments exceeded a particular dollar amount, a tender process would be triggered and it would be taken away from the manager within the ITC and it would be placed with the procurement section of the University who would then conduct that task. And as a result of the budgetary structure, it was possible for a manager to split the contract into a series of subcontracts to avoid triggering the recruitment process, in other words, you could set up a number of subcontracts with individual subcontractors and that financial arrangement would avoid scrutiny and a default position within the procurement section.

20 Now, it's within this context of procedures that Mr Demiralay was able to refer the majority, if not all of the casual IT recruitment to either Succuro or Succuro Recruitment Pty Limited. From 2008 Succuro Recruitment Pty Limited was a company that was closely related to him and his wife.

30 And that brings me to tease out a couple of the matters which are significant for this inquiry. The life of Succuro needs to be split into two distinct stages. Succuro was in the business of IT personnel recruitment and in that regard it was a business method that they operated which was a common industry model. Succuro would advertise for skilled IT personnel and then employ them directly to work for the host employer, in other words, IT personnel were employed by Succuro, Succuro would then contract with the University to provide that labour to the University. So Succuro remained the employer of the relevant personnel. The host employer, in this case the University, paid Succuro an hourly rate which was well in excess of the hourly rate that Succuro paid to the employee. All right. Now, that's not uncommon. Part of that excess covered direct business costs such as superannuation, Workers' Compensation insurance and other employment costs, but the balance of that excess charge comprised profit for the company.

40 Now, the short point is the more workers that Succuro has in place at the University as a host employer, the greater the return to it in term of profit. The longer they remain in the contract at the University, the greater, the longer the profit stream is coming through.

Now it was the case that on occasion these contractors would be placed from contract to a permanent employee of the University. Now on those occasions Succuro claimed to be entitled to a placement fee. Part of the problem for this Commissioner is that on several of those selection committees in which the application for the contractor to be applied, to be

made a permanent employee, Mr Demiralay was on the selection panel and as – and the pattern you will see is that on many occasions Succuro contractors would be appointed to the team leader positions within the ICT.

10 Now in the beginning Succuro was nothing more than a trading name of a Mr Peter Kostogiannis, now he'll be called at some point in this Commission, and thereafter in about August 2008 the business model changed. It changed to a company and the company was called Succuro Recruitment Pty Limited. Now for the time being I shall refer to the recruitment agency as Succuro, right.

Before 2006 Succuro had placed IT personnel and other personnel at Transfield Services. At Transfield Services worked a gentleman by the name of Mr Bill Mylonas. His name will come up later as being involved in Succuro, but also Virginia Kantarzis, right. Virginia Kantarzis became Mr Demiralay's wife and it seems both Mr Mylonas and Virginia Kantarzis, when they worked at Transfield, utilised Succuro for recruitment.

20 Now according to Mr Kostogiannis up until the end of 2006 the business was run with marginal success and at that stage Succuro had performed no work for the University of Sydney. Now if statements made to investigators are correct it was in about early 2008 that Mr Kostogiannis was approached by Mr Bill Mylonas with a view to acquiring the business. According to Mr Mylonas, at some stage Ms Kantarzis and Mr Mylonas resolved to form a company for the purpose of operating the business. That company became Succuro Recruitment Pty Limited. They say they each contributed \$50,000 in cash as part of capital contribution, but the legal documentation does not reflect a partnership.

30 Virginia Kantarzis attended Mr Mylonas' accountant, a gentleman by the name of Nicholas Moustacas. He incorporated on her behalf a company which adopted the name Succuro Recruiting Pty Limited. Now Mr Moustacas told investigators that he has never met Mr Demiralay. So the person who was effecting these developments appears to be Virginia Kantarzis, as his wife. Now she was appointed a director in the – a director of the company and the company secretary. Mr Mylonas only became a director a month or so after incorporation at which time he acquired a 50 per cent shareholding. Now Ms Kantarzis was not just working at Succuro as a director and as company secretary, she was one of the controlling minds of
40 the company.

Now these company management positions are not matters of mere formality. A person who is appointed a company director assumes a great number of formal responsibilities conferred under the Corporations Act, not the least of which is responsibility for debts in the case of insolvent trading, use of company position only for the benefit of the company, they are well-known responsibilities of company directors and it's anticipated that Mr

Moustacas will tell the Commission that he gave a description of these responsibilities to Mr Mylonas and Ms Kantarzis.

Now by September 2008 the shares in the company, in Succuro Recruitment, were as follows: Virginia Kantarzis and Mr Demiralay held 10 shares on trust and Mr Mylonas held 10 shares. Now, it seems that Mr Moustacas had suggested that the shares be structured on a trust and the beneficiaries seem to relate to the imminent arrival of their child. It seems that the trust never made a distribution to any of the beneficiaries.

10

Now Ms Kantarzis nominated a registered company address which was Mr and Mrs Demiralay's flat at Newington in Sydney. So when you take these features in combination there's no doubt that Ms Kantarzis had a very real legal association and financial association with this company and Mr Demiralay did as well.

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Now it's in the second stage of the life of Succuro that causes the Commission the greatest concern. The Succuro business grew at the University and Mr Demiralay regularly engaged Succuro to provide, to provide contractors to the University even though both he and his wife had an interest in the company. So the tipping point in this investigation seems to be that August/September 2008 point. There was no disclosure of these interests, of these financial interests. Now, Mr Demiralay had as his supervisor until about 2008 a gentleman by the name of Mr Nick Kovari and Mr Demiralay will suggest I expect that Mr Kovari told him he could use anybody he wanted for casual recruitment. Now Mr Kovari denies this - denies that any such allegation was given. Mr Kovari we expect will tell the Commission that there were guidelines that required a number of competing suppliers and an assessment of each.

30

Now in about February 2008 Mr Kovari passed, passed on as Mr Demiralay's supervisor and Mr Mark Pigot took over as supervisor and Mr Demiralay says that he raised the use of Succuro Recruitment with Mr Pigot. Now if he did, if he did, and it's not accepted that he did, the question's going to be what the extent of that disclosure was. It may have been that Ms Kantarzis worked for Succuro, which indeed she did. She was earning a wage from Succuro of somewhere between \$400 and \$500 a week and it seems that she was working from home. But if that disclosure was made it was not a complete disclosure because Ms Kantarzis' involvement extended well beyond just being an employee.

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Now Mr Pigot no doubt discussed the use of Succuro Recruitment because at some stage later he developed an informal preferred panel of recruiters to be used by the ITC department and that preferred panel had five names on it that managers could use to procure IT contractors or IT staff.

According to one witness, Succuro was the only supplier who was able to provide casual staff. The fact is that from June 2008 to 2011 if an

inexpensive company search was conducted, it would have showed that Ms Kantarzis was a director and secretary of the company, that she and Mr Demiralay jointly owned about half of the company shares, although on a family trust. So we've got the nomination of a preferred panel of suppliers on the one hand and no inquiry really being made as to who they were dealing with. And it would have been one of the simplest things in the world to do if one were to try and put together a preferred panel.

10 Now, it was through this period that the University seems to have been tightening up on conflict issues, because in August 2009 a revised Code of Conduct was being formulated and was sent out to all managers for them to read and adopt. So that was 31 August. Again on 9 September, 2009, a further email was sent about the Code of Conduct and again it was inviting staff to read it and to acknowledge its existence. Now, we expect that the evidence before this Commission was notwithstanding the distribution of this Code of Conduct, Mr Demiralay did not come forward to any person to disclose the interests of he and his wife.

20 Now, on 9 January, 2010, the University of Sydney offered Mr Demiralay the position of Manager Field Services, there was a pay rise, but in order to accept that offer of employment Mr Demiralay was obliged to give an acknowledgement and that acknowledgement included that he had, "Read and understood the following University policies which were provided to me with this offer of employment." Firstly a Code of Conduct, secondly the ICT Resources Policy, thirdly the Occupational Health and Safety Policy Guide, it's not so relevant, fifthly the Corruption Prevention Strategy, absolutely a critical document to provide to an employee who was making these sorts of decisions, and finally the Discrimination Prevention Policy, not, not of relevance here. Now, he signed the acknowledgement on 18
30 January and he delivered it to his employer. He must have delivered it as a representation that his employer could rely upon, there was no other reason for him to do so, but after that he continued to use Succuro Recruitment. Now, the invoices issued by Succuro or Succuro Recruitment, 30 June, 2006, the financial year ending 30 June, 2006, \$3,080. Well, that obviously was issued by Succuro prior to the changeover. The following year, 2007, \$258, 891, the following year, 30 June, 2009, \$428,137, 30 June, 2009, now, this is a period where Mr Demiralay and his wife were nominated as though his wife was being the shareholder, \$555,049, 30 June, 2010, \$537,722. Now Mr Demiralay either approved the, the payment of these
40 invoices or recommended the payment of them by the financial services department.

Now part of the problem is that there was no global written contract between the University and Succuro and no contract appears on the University's contract register and it doesn't appear that anybody was able to pick up either the extraordinary growth in the use of Succuro in dollar terms or the fact that Mr Demiralay or his family had an interest in the company.

Now on 6 March, 2009 Succuro Recruitment engaged in a change. What it did was it sought it change its name to I-Secure Recruitment Pty Limited. The name Succuro continued to be used, but the company changed its name and the Commission will be asked to draw an inference as to why such a change took place. Something must have precipitated it. Now one available inference may be that whether by reason of the introduction of a new Code of Conduct or rumours that were circulating at the University which seemed to have started about this time that Succuro was owned or associated with Mr Demiralay and his wife, that the company wanted to put up a firewall as it were between the trading name Succuro and the ultimate proprietors of the company.

Now on 25 June, 2010 there was a further change in the way the company was set up because on 25 June, 2010 Ms Kantarzis and Mr Demiralay transferred their shares to Mr Bill Mylonas and Ms Kantarzis resigned as a director and secretary. Now the Commission will hear evidence that this transfer occurred only two days after a hyperlink to the transcript of this Commission's hearings in Operation Kanda was sent to Mr Demiralay. Putting that another way, on 23 June, 2010 the Commission was investigating conduct of cleaning – relating to cleaning contracts, the allocation of cleaning contracts at the University of Sydney called Operation Kanda and on that first day very, very similar allegations to the ones that I'm putting to this Commission were put forward by Counsel Assisting. And what happened was a gentleman by the name of Mr Nick Gilpin found this, read the material and circulated it to a number of people within the University, one of whom was Mr Demiralay.

Now this Commission will have to make a finding as to why the transfer of shares and the resignation took place within the company then known as I-Secure, but really it's operating as Succuro, and the obvious one is that Mr Demiralay had read the opening, realised that his conduct fell within exactly the same pattern of conduct that was described in Operation Kanda and both he and his wife sought to conceal their financial involvement with Succuro Recruitment. And that is a very, very significant step. And to think of an innocent explanation is difficult.

Now the deficiencies extend beyond the allocation of work to Succuro. The investigation has also identified deficiencies in the University staff selection process in which Mr Demiralay was involved and in that regard the staff selection process for permanent employment required the taking of curriculum vitae from potential applicants, assessing them, short listing them, bringing them before a selection panel who decides whether somebody's to make – who's to decide whether an offer of employment is to be made.

And it's the process of the staff selection panel which causes the greatest of concern to investigators and I'll take just, but two examples of deficiencies in the appointment process given the time it's taken to cross over this

material. On about 22 September, 2009 Mr George Tshipidis was being proposed to be permanently appointed as a team leader under Mr Demiralay. Up until that time he was contracting through Succuro to the University. Now his application for appointment came before a selection committee that comprise the following people: 1, Todd Demiralay, 2 a gentleman by the name of Adrian Buxton who was team leader of field services and another gentleman by the name of Tim Passe, also known as Tim Passe-De Silva who was also a team leader of Field Services.

10 Now there were no other applicants shortlisted before the Selection Committee. There was only essentially one applicant. Now, the constitution of this Staff Selection Committee causes concern. Mr Demiralay was the chair of that panel. It doesn't appear that Mr Demiralay disclosed to his fellow panel members or to his own supervisor at the time that Mr Tshipidis was related by marriage. He was, as I've said, a brother-in-law. It might be thought that that relationship alone was sufficient for Mr Demiralay to at least disclose that interest to his fellow selection members or to his supervisor but probably to excuse himself from the selection process. He didn't do, take any of those steps and Mr Tshipidis was appointed.

The second example is a Mr Peter Smeros. He made application for permanent employment in about March 2009 as a computer support officer expecting to get a wage of about \$65,000 per annum. Mr Demiralay knew that Mr Smeros had worked with his wife at Transfield so there was a relationship there and also Mr Demiralay had been invited to Mr Smeros' wedding. It's expected that evidence will include the fact that Mr Smeros had been to Mr Demiralay's house and vice versa. Again, the Commission has a number of concerns about how the Selection Committee was comprised. Mr George Tshipidis was appointed as the chair and at that time Mr Tshipidis was not a permanent employee, he was a contractor employed by Succuro. The use of contractors on a Selection Committee is inappropriate.

30 Now later, about 12 months later - Mr Smeros got the appointment by the way. Later in about 2010 the - sorry, I'll withdraw that. On another occasion there was another position that became available, 19 January, 2011, there were two applicants, Mr Smeros and another applicant. The panel then comprised Mr Demiralay and there was another panel member, Mr Tshipidis. Now Mr Demiralay did not disclose his prior relationship to the other panel members to Mr Smeros and he was also sitting on a panel with Mr Tshipidis, his brother-in-law, and didn't disclose his relationship to the other Selection Committee members about that relationship.

40 Now, in summary it seems that Mr Demiralay was able to independently operate for at least the period 2008 to 2010 in such a way that University policies were evaded or avoided and in doing so was able to give preferential treatment to a company in which he and his wife held a legal

and financial interest. He also failed to disclose his conflict of interest in that process to his employer and also repeatedly failed to disclose relevant conflicts of interest in the staff selection process and in failing to do that he was able to appoint relatives and former business associates to important managerial positions within the unit that he was involved. Now, that's the extent of my opening and I propose that we can then proceed to call the first witness who will be Ms Madeleine McCabe.

10 ASSISTANT COMMISSIONER: Thank you, Mr Morris. I'll now take applications for leave to appear from any interested parties.

MR GIBSON: Commissioner, I seek leave to appear for Mr Demiralay. My name is Gibson.

ASSISTANT COMMISSIONER: Yes, Mr Gibson, you're given leave to appear.

20 MR MIRALIS: Commissioner, my name is Miralis. I appear on behalf of Ms Virginia Kantarzis. I seek leave to appear on her behalf.

ASSISTANT COMMISSIONER: Yes, you're given leave to appear for Ms Kantarzis.

MR MIRALIS: Thank you, Commissioner.

MS OAKLEY: Commissioner, my name is Janet Oakley and I seek leave to appear for the University of Sydney and various employees who have been called and I'll deal with those separately.

30 ASSISTANT COMMISSIONER: Yes, Ms Oakley, you are given leave to appear.

MS OAKLEY: Thank you.

ASSISTANT COMMISSIONER: If there are no other applications?

MR GOLLAN: There is. My name is Gollan, G-O-L-L-A-N. I seek leave to appear on behalf of Mr Mark Pigot.

40 ASSISTANT COMMISSIONER: Yes, Mr Gollan, you are given leave to appear.

MR GOLLAN: If the Commissioner pleases.

MR PATTERSON: Commissioner, Patterson is my name. I seek leave to appear on behalf of Peter Kostogiannis and Andre Selemat.

ASSISTANT COMMISSIONER: Yes, Mr Patterson, you are given leave to appear.

MR PATTERSON: Thank you, Commissioner.

MR McILWAINE: Assistant Commissioner, McIlwaine, I seek leave to appear on behalf of Mr Bill Mylonas.

10 ASSISTANT COMMISSIONER: Yes, Mr McIlwaine, you're given leave to appear.

MR CHALMERS: Good morning, Commissioner. Chalmers, solicitor. I appear, I seek leave to appear for Timothy Passe-De Silva.

ASSISTANT COMMISSIONER: For Mr Passe-De Silva?

MR CHALMERS: That's right.

20 ASSISTANT COMMISSIONER: Yes. Yes, you're given leave to appear, Mr Chalmers.

MR CHALMERS: Thank you.

MR EURELL: Commissioner, my name's Eurell, E-U-R-E-L-L. I seek leave to appear for Mr Angelopoulos.

ASSISTANT COMMISSIONER: Yes, Mr Eurell, you are given leave to appear.

30 MS McGLINCHEY: Commissioner, Ms McGlinchey, Solicitor. I seek your leave to appear for Nicholas Kovari and George Tshipidis.

ASSISTANT COMMISSIONER: Yes, Ms McGlinchey, you're given leave to appear.

MR STEWART: Good morning, Commissioner. Stewart, solicitor. I seek leave to appear for Mr Peter Smeros.

40 ASSISTANT COMMISSIONER: Yes, Mr Stewart, you're given leave to appear for Mr Smeros.

MR STEWART: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes. That appears to be all of the applications. We'll call the first witness who is?

MR MORRIS: Madeleine McCabe.

MS OAKLEY: I seek leave to appear for Ms McCabe.

ASSISTANT COMMISSIONER: Yes, Ms Oakley. Yes, you're Ms McCabe?

MS McCABE: That's right.

ASSISTANT COMMISSIONER: Yes, please take a seat.

10 MS OAKLEY: And I seek a declaration in relation to Ms McCabe's evidence.

ASSISTANT COMMISSIONER: Thank you. Yes, Ms McCabe, you've been called to give evidence and you are required to answer all of the questions asked of you. Your counsel has indicated you wish to seek a declaration under section 38 of our act, the effect of which is that nothing you say can be used against you in any future proceedings.

MS McCABE: Yes.

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ASSISTANT COMMISSIONER: Do you understand the effect of that order?

MS McCABE: Yes, I do.

ASSISTANT COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced. Thank you.

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40 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED**

MS McCABE: Thank you.

ASSISTANT COMMISSIONER: Yes. Now, you're required to take an oath on the bible or make an affirmation to tell the truth. Do you have a preference?

MS McCABE: On the Bible.

ASSISTANT COMMISSIONER: Yes, Mr Morris?

MR MORRIS: Thank you. Excuse me. Your Honour, for the orderly conduct of this inquiry, perhaps I might at this stage tender volume 2 entitled Schedule of Tender Bundle, and I propose to do that as Exhibit 1 because it commences at page 1 and ceased at page 510.

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ASSISTANT COMMISSIONER: Yes, well that, that schedule of tender bundle, volume 2 will be Exhibit 1.

#EXHIBIT 1 - VOLUME 2 OF BRIEF OF EVIDENCE

MR MORRIS: And as Exhibit 2 I would propose to tender a volume entitled Tender Bundle 3 which is paginated and starts at page 1 and goes through to page 469.

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ASSISTANT COMMISSIONER: Yes, well tender bundle 3 will be Exhibit 2.

#EXHIBIT 2 - VOLUME 3 OF TENDER BUNDLE

MR MORRIS: Your Honour, Ms McCabe has sworn a statement dated 26 August, 2011. Might I hand that to the witness? I'm sorry, it's just been signed, your Honour. It's been pointed out to me it's been signed, not sworn.

30

ASSISTANT COMMISSIONER: Not sworn, yes.

MR MORRIS: But I'll attend to that now. Ms McCabe, I show you – I'm sorry, your full name is Marie Madeleine McCabe?---Yes, it is.

And you signed a statement to the Independent Commission Against Corruption on 26 August, 2011. Is that true?---Yes, I did.

40

And is that the document that you have in front of you?---Yep.

And have you seen that document recently?---Yes, I've got a copy of it.

And is that document true and correct?---Yes, it is.

Now I tender that document, your Honour.

ASSISTANT COMMISSIONER: Yes, the statement of Ms McCabe will be Exhibit 3.

#EXHIBIT 3 - STATEMENT OF MS MCCABE DATED 26 AUGUST 2011

10 MR MORRIS: Are there any changes that you wish to make Ms McCabe, to that document?---No, no changes.

Now I'd just like to take you to – you were employed at the ICT for a number of years. As I understand it from about 2006/2007 you were employed at the ICT?---I actually started in 2000.

In 2000?---Yep.

So you've been there for a good number of years?---Yes.

20

Now do you recall that over that period there was a need from time to time for – well sorry I'll withdraw that. Do you recall that there was a Code of Conduct throughout that period?---Yes.

Now do you recall that - roughly when that Code of Conduct came into play?---As an official document no, there's always been something written in all universities and certainly in Sydney.

30 Okay. Might the witness be shown volume 2, which is Exhibit 1. You'll see Ms McCabe that in the top right hand corner there's some paginated numbers in that volume. Do you see there?---(NO AUDIBLE REPLY)

Have you got paginated numbers - - -?---There's nothing - - -

- - - in the top right hand corner of - - -?---Oh, it's got the pages there, yes.

Yes. If you just go to page 83 of that document?---Yep.

40 And just have a look at that document. I suggest that's a copy of a Code of Conduct as it appeared in – some time after 2003?---I couldn't say exactly when but it certainly looks familiar. I mean it's the same as the library - - -

It's familiar to you?---Yeah.

And then if you go to page 91 of that volume?---Ah hmm. Yep.

Can I suggest to you that that's the Code of Conduct as it applied in 2008?

---Again, I don't know the exact dates, but we certainly have the policy and the Code of Conduct, I haven't read them exactly recently so I'm not sure this is the current one.

But you're familiar with both of them?---Yes.

10 And it was - was it - what was the purpose of the Code of Conduct so far as you were concerned?---That everything I did was in the interests of the University and I wasn't doing anything that hurt anybody else or the Uni basically.

And also that you didn't take any step that caused you or your relatives private profit?---Of course.

And in that regard you set out in your statement, which is Exhibit 3, an account that all new employees of the University were given a copy of the Code of Conduct weren't they?---Yes.

20 And certainly - and you also say at paragraph 13 that all new employees when they first log onto the University's computer system had to acknowledge that they'd read and understood the Code of Conduct?---They did at that time, yes.

Do you recall when that system took place, was introduced?---Not exactly but it was certainly before then.

30 Now you say in paragraph 14 of your statement that you've never received any formal training in relation to the University's procurement policies and procedures or advice relating how to deal with recruitment agencies?
---Correct.

But you were, I take it, aware that procurement policies existed?---Yes.

And if I might take you to Exhibit 1 and just show you page number 122. Was that a document that was available in about 2006 and 2007?---Yes.

And was that a document that you recall reading?---I, I read parts of it when I needed to but I haven't read the whole document.

40 So you had that document available to you throughout that period to guide you through the process?---Yes.

Did you have that in hard copy or was it - - -?---At that stage there were hard copies around and we would ask people if we wanted to refer to it.

Right. And if you go to page 131 of that bundle you'll see a copy of a purchasing policy dated 2007. Was that a document that you had available

to you in about 2007?---It would have been in the finance rooms, in ICT and again we asked people if we wanted something from it.

Right?---It wasn't common reading.

It wasn't common reading?---No, not by everybody.

The fact is, Ms McCabe, you were able to access this material when you made procurement decisions?---Yes.

10

You were able to access this material when you were making expenditure decisions?---Yes.

And you had no impediment to you, did you, in being able to find it?---No.

You talked about speaking to people. Were there other people within your department who had working knowledge of this material if you needed help?---Yes, there were. We had our own Finance Department and they knew, they understood all of these.

20

Right. So if you were called upon to make an expenditure decision and you weren't sure of the protocol or procedure you were able to go to your own internal department for assistance?---Definitely.

And did you do that?---And we did very regularly, I was always in the room.

Right. And did you have a supervisor?---Yes, I did.

30 Who, who was your supervisor at the time?---At which stage? I had a number of supervisors.

Okay. From, from 2006/2007?---Nick Kovari was my supervisor and then after that Mark Pigot.

Right. Now did Mr Kovari speak to you at all about what standards and protocols to use or procedures to use when you're making expenditure decisions? Do you recall?---Specifically to tell me no, but we had both worked in the University for a while and we used the same procedures.

40

Right?---So we both used to go to Finance for the manuals.

So he used to go to Finance too from time to time?---Yes.

And I just want to take you to another document and that is in Exhibit 1, page 117?---Ah hmm.

You see that that's a document entitled Policy Document Corruption Prevention Strategy?---Yes.

Do you recall seeing that in your work?---I've certainly seen it, yes.

And would you have seen it shortly after it was promulgated?---Probably, but I don't remember looking at it at that stage. I would have looked at it but it didn't mean too much then. I've certainly looked at it since.

10 So when you say in paragraph 16 that you had no formal training in relation to the University's policies and procedures for the reporting of conflict of interest issues is it fair to say that you had read them and you understood enough of them to be able to apply them in your job?---Yes.

And similarly although you may not have had formal training in terms of policy procurement, earlier procurement policies and so forth, you knew enough about it to be able to operate in your job?---Yes, definitely.

20 And if you felt that you were running short of expertise would you go to somebody else?---I would go to HR and ask them, yes.

Now do you recall the development of a change in the use of IT contractors at the University's ICT and roughly when that occurred?---That's the difficult part putting dates on things, but see when I first arrived there there wasn't much of a formal arrangement on getting casuals and short-term contractors and so it was done very, very locally.

30 Yes?---But by 2005 that sort of time, we started becoming more formal in the way we did everything and so we had – but the first thing was that we actually advertised externally for a lot of short term people and we would develop a list of casuals who were suitable for the jobs after interviews and applications and keep them on the list so that we could call them when we needed them. And that worked very well for a while but then obviously people want to get permanent jobs, we were constantly having to do this recruitment and the advertising and the interviews and so then we started looking for other ways of doing that which is why we started using recruitment agencies to do that advertising for us and develop lists and keep them. And we worked with a few – a couple of different companies who managed to keep casual lists for us. And it was mostly casuals or very
40 short-term contracts that I dealt with. They kept those for us and then when we needed somebody we would call them and they'd send a few people over, we'd interview them and decide on who to, to take on. By 2007 that's what we were doing, but we were developing a need for very short-term people, just a few days at a time to do special short-term projects, moving people from one building to another, things like that. And we were having trouble keeping people on a list who only wanted that sort of very, very casual work. And even the recruitment agencies couldn't keep them very often, so we were constantly looking for ways and means of getting that.

Right. Now in terms of selecting recruitment agencies how – as at 2006/2007 how did that occur?---There were no set University lists that we knew of for actual recruitments agencies and so it was taken by a lot of cold calling from account managers themselves who were interested in working with us and we'd actually call them in and speak to them and see what they could do. There were some that we – people who were working in ICT actually knew other recruitment agencies that they had worked with, either for long-term or short-term contracts and so we would call them and ask them for people as well. And that's how we heard about Succuro in the first place, because people had actually worked for them before.

Do you recall who it was who had actually worked with them before?--- Sure, Todd Demiralay let us know that he had worked with them in his previous employment and so we gave them a call. At that stage we were doing a lot of relocations and needed people for two, three, four days, and that's what we were using it for.

Right. Now, are you, you just said that Mr Demiralay had used them in his previous employment?---Yes.

Did he say that he actually used them in previous employment or his wife had used them in his, in her previous employment?---He only spoke about himself.

Right. So he claimed to have personal knowledge of them?---Yes.

Right. Now, you had a, at that stage you were dealing with Mr Kostogiannis, is that correct, at Succuro?---I think he came and visited once.

Right?---But I didn't, I didn't deal with them too much directly, it was staff who were working for me who did the actual dealing with them.

Right. Was there any assessment process for the individual contractors to come onsite?---It depended a little whether they were there for a couple of days or whether it was going to be a few weeks. If it was a few weeks, then yes, we interviewed first, because usually there was a lead time and we could do that. When we needed them for a couple of days there wasn't much notice so we tended to pick a few people and if they didn't work out, not pick those ones again- - -

Ah hmm---?- - -and ask for people back that actually were very good at their job.

Now, there was, you had a meeting I think sometime, you say in your statement, paragraph 51, 14 July you received an email from Bill Mylonas from Succuro, right, which was also addressed to Todd Demiralay. Did you ever meet Mr Mylonas?---I think we had met him just before that, before he

sent that email, because that email was confirming things that we had met about. It was to do with just the future with that company, but I don't really recall the meeting itself, only the email.

Right. Do you recall whether there were many contractors at that time employed through Succuro at the University?---In the team that I was looking after it was only very short-term people that I'd just been talking about and I don't know where else they may have been employed.

10 Right. Now, at, as at mid 2008 through to the end of the year- - -?---Ah
hmm.

- - -from the beginning of 2008 to the end of the year, were you involved in procuring contractors through Succuro at all?---Not that I recall. The only contractors I was looking for were more programmers at that stage and that wasn't through Succuro, it was other companies.

Right. Now, did, so you were looking for a different type of- - -?---Yes.

20 - - -people with a - - -?---Different skill set.

A different type of specialist?---That's right.

Different skill set. The people that Succuro were providing, what was, predominantly in what area were they being provided?---They were mostly the desktop support sort of staff, so they had a lot of skills in the desktops, servers, a little bit of network expertise, but not the software side of things so much.

30 Now, you talk about, who was dealing with the, those sorts of personnel at the University?---That depends on which team they were going to be in because the managers of those areas looked after their particular area, but certainly Todd was looking after the desktop support, the Field Services groups, Michelle Hanchard was looking after the, the relocation groups, again the same kind of people, and other managers in the more technical areas.

So Mr Demiralay - is it the case that Mr Demiralay was largely dealing with the desktop support people?---Yes.

40

And did you have any cause to observe his conduct or the way in which he recruited people for that task?---Not particularly, it wasn't, didn't really involve me.

Did you make any observations as to whether - as to how many recruitment agencies were being used by him or - - -?---No, he never commented to me.

All right. Did he ever mention to you any relationship that either he or his wife had with Succuro Recruitment after say August 2008?---No.

Is that because - would you have expected him to or the - - -?---Not at that stage.

Yeah?---No. Well, it wasn't even part of my job to be talking to him about that sort of thing so no, I wouldn't have expected it.

10 I see. So when you say in your statement that he never mentioned any relationship to you it wouldn't really be part of your job to be supervising his conduct of his little area?---No, completely independent.

Now, just in relation to the appointment of contractors to permanent staff positions, right?---Yeah.

20 Did you have a - do you now have a recollection as to how that process was supposed to be performed so far as you knew at the University and would you kindly tell the Commissioner?---There's a couple of different ways but if somebody's been in a contract position for an extended period of time, I'm not sure exactly when it started, but now you can certain - well, they can make a submission to be turned into a permanent employee if they know that job is going to continue to be necessary but the main way that we had was that if someone was on a contract we actually had to advertise the position externally and go through a full recruitment process to turn them into a permanent employee.

30 Right. Now, you've just used the word externally. Were there certain jobs within the University that were advised internally and certain jobs that were advised externally and, if so, can you just explain to the Commission how the difference in those processes worked?---The difference is a little bit in timing because originally when I started and for a lot of the years you had to advertise every position externally, there was no internal and it's only a few years ago that we were able to advertise internally and you would do that if there was a person who was already a permanent employee of the University or a casual employee of the University who could be suitable for the position or there were going to be enough internal people that you would be able to fill the position. Then you advertise externally if you want to get people who are not actual employees of the University to apply for the positions, for example, contractors who were contracting through another company.

40 Okay?---Or people who work for another company as well, so - - -

Can I - is this a fair summary: that there were jobs which were to be advertised internally first before they were advertised externally?---Yes.

And were contractors eligible to apply for an internal only position?---No.

So if the job was not capable of being filled internally by the University, the University would then shift to a broader advertising campaign externally and the contractor could apply through that process?---Yes.

But either way the applicants would be shortlisted and would go before a selection panel would they?---Yes, that's right.

10 Would the applicants have to provide a curriculum vitae?---Yes, they do.

And referees?---Yes.

And tell me about the - did you ever sit on selection panels?---Quite a few.

Quite a few. And how many would you have normally in the period say 2007 through to 2011, how many people sitting on the selection panel?
---Usually about three.

20 Right?---You may also have an HR rep as well as that.

I see. And did you have, did you consider that you had an obligation to make any disclosures if you knew the applicant?---Yes.

30 Just explain to the Commissioner what your process was?---Well, when going through the applications, talk to the other people on the committee about the pros and cons of each person, if I knew them in a previous role I'd always say that I'd met them in a previous University or wherever it was, certainly if I'd actually known them personally or been related to them I would have let somebody know that one, but I can't recall that I ever did actually. It's just knowing them or knowing of them from other people, certainly you would have said, I've heard of that person, or I've heard of that, that person, and we all did that kind of conversation.

And that would be a discussion between the selection panel members?
---Correct.

40 And what about, had, what, what about if you have actually been the referee for an applicant and sat on the selection panel?---Then I would have asked the person to get another referee because I would not give a reference for somebody when I was on the panel.

Right. Would you also disclose to the other panel members that you had been asked to be a referee for the person?---Well, yes, and they would have seen it because it would be on the application as well.

And would you, in the applications that you considered or the selection panels upon which you sat, would you consider that it would be appropriate for you to continue having made a disclosure of your interest or to actually

withdraw from the process?---In general I've continued, it's been considered acceptable because, well, whatever the relationship was was okay.

Well, it had been disclosed?---It had been disclosed and nobody else objected to it and everybody has a right to object if they consider that the panel has been biased in any way, so it would have come out at that stage if anything had gone wrong.

10 And what about the, have you ever seen it happen that a contractor would be appointed to a selection panel?---I can't remember any in the ones that I had, but I would say that it could be done around the University certainly.

Right. Would you consider that to be appropriate?---Depends how long the contractor is there for, because some of the, some of the contractors, especially in the senior positions, are there for years at a time and they need to be on the panels.

20 Why is that?---Sometimes they're the people who are actually going to be supervising these staff, whether they're permanents or contractors coming in underneath them, they're responsible for their role rather than whether or not they're actually employed by the University or for another contractor, so it shouldn't really make that much difference.

Now, what about having a, somebody sitting on the selection panel who was related to you by marriage?---You mean I'm on the panel and they're on the panel?

30 Yeah?---No, wouldn't do it.

Why is that?---Too close and, and you're not getting a breadth of ideas and breadth of experience in the panel by doing so.

Now, you just said no way, wouldn't do it, or words to that effect?---It's just me.

40 I understand that, but what you're saying is that you would either excuse yourself or expect your relative to excuse themselves from the selection process?---Yes.

Now, you've annexed to your statement a couple of emails?---Ah hmm.

Your statement's 20 pages long and there are annexures at the back that relate to an incident in relation to a permanent placement of a woman called Erin Normoyle, right?---Yes.

Could you just tell the Commissioner briefly what you can recall now of that incident?---Well, at the time we were looking at trying to put Erin on as

the, a permanent employee of the University and she brought up to me the fact that since she was with us through Succuro as a contracting agency, they were saying that they would want a commission if she became a permanent employee of ours. And we hadn't had any discussion about this with Succuro at the time and there wasn't a great deal of budget around to pay that kind of commission. So I wrote to Succuro and asked if they would waive that commission for us so that we could place Erin.

10 Did you - you say in your email which is below the one that we can see here on the screen?---Yep. Ah hmm.

You say in your opening paragraph in the final sentence that you investigated Erin's status and you cannot find a signed agreement for her current employment?---With Succuro, yes.

20 Yes. Did you ever come across at this time to your recollection an agreement which entitled Succuro to a placement fee in the event that a contractor provided by Succuro to the University was then appointed in a permanent position?---Not with the ones that I had which is Erin and a lot of the short-term people.

Right. You actually looked through the records of ICT to try and find such an agreement?---No, I haven't looked through, but I know that we didn't sign anything for those. They were very short-term and we just went week by week.

Right. So essentially what happened was you raised with Succuro the fact that there was no contractual entitlement to pay - - -?---Yes.

30 - - - a placement fee. Now in your second last paragraph you say I'd like to meet with you to discuss this and have a firm agreement between the University and Succuro so that uncertainties like the current issues within (not transcribable) status do, no, I think it should be do not occur?---I probably meant not.

40 Yes. Did you ever recall such a meeting with Succuro after this email exchange?---Not immediately. The only one that I didn't recall, but the second email was from Bob Mylonas saying that we had met to start discussing that. And it was some time later. I certainly didn't meet with Peter about it.

Now do you recall who was at - do you actually recall any meeting to try and tie down the contractual relationships?---No, I don't recall the meeting itself. I only know that we had one because of the email that I found.

So that's refreshed your memory?---That refreshed the memory that it must have happened.

Do you recall, do you recall who was at the meeting?---No.

You'd only rely on the email?---I'm only relying on the email that we did actually have one. I don't remember anything after that.

All right. Now the evidence that you've given in your statement in relation to how you operated your recruitment and engaged contractors, short-term contractors that's essentially correct is it as to how you did it?---Are you talking about the casual ones or - - -

10

The casual?---The casual ones, yes.

And the short-term - - -?---And the short-term contracts going out and - - -

Yes?---Yep.

And was that the sort of thing that you discussed with your supervisor from time to time?---Sure.

20

And was that essentially a – the policy throughout ICT for the time that you were in that position?---It certainly wasn't a written policy but it was the way things were done in a lot of areas, yes.

And you saw that obtaining competitive quotes and so forth to be an important feature of that process?---Definitely.

30

Why is that?---Because we wanted to see a range of people who were available to do different roles so that we could pick them, the same as if we were advertising for a permanent employee and I wouldn't leave it just for one.

I have nothing further, your Honour. Thank you. Thank you, Ms McCabe? ---Thank you.

ASSISTANT COMMISSIONER: Yes. Does anyone seek to cross-examine this witness.

MR GIBSON: Commissioner, I seek leave.

40

ASSISTANT COMMISSIONER: Yes.

MR GIBSON: Ms McCabe - - -?---Yeah.

- - - just firstly I want to ask you some questions about your position within the University?---Sure.

You just described your position as a relationship manager within ICT, that's your current position is it?---Correct.

If we go back to say 2006 what was your position then?---I was support services manager at that stage.

And did that - change position, did you get a promotion or something at some stage?---It's not really a promotion, just moving sideways.

And when did that happen?---You mean to the relationship manager?

Yes?---That was the middle of 2009.

10

So in 2006 you had a position and then you moved to a - sideways to your current position - - -?---Correct.

- - - in 2009?---Yeah.

And you told us I think that your supervisor was initially Mr Kovari?---Yes.

And then when he left it became Mr Pigot?---Yes.

20

And I gather then that you - now the team, the structure of ICT is that there is a director position is that right?---At the very top?

Yeah?---The CIO.

CIO and then below that directors?---Correct.

And the director position was Mr Kovari or then later Mr Pigot?---Yes.

And below that position there are managers - - -?---Yes.

30

- - - of various areas?---Ah hmm.

Is that correct? And you were one of those managers?---I was one of those.

That's right. And Mr Demiralay, when he joined, he didn't come in as a manager, do you remember that?---Yes, he did, he came in as - the same level.

The manager, desktop services?---Correct.

40

So in that respect you were on the same level as him?---Yes.

Although a different area?---A different (not transcribable) yes.

And below you you employed or had responsibility for a number of staff?
---Yes.

As he did?---Yes.

This dissemination of various policies throughout the University, is it your recollection that there was no formal process of that?---Which policy is that?

Well, let's start with say the procurement policy which was initially the purchase policy?---Ah hmm.

10 And it went through variations and ultimately changed name to procurement policy?---Sure.

You remember that?---Yes.

And that was a document that was just wasn't available lying around somewhere?---It was available. It was advertised when it was changed and the fact that it was there.

20 You didn't have to sign anything to acknowledge that you read it or - - -?
---No.

- - - understood the changes - - -?---No.

- - - whenever they were made?---No.

This telling you of when the changes had been made, how was that done?
By email or by a letter?---Certainly by email now, yes.

30 What about back in '06 and '07, do you remember?---'06 and '07, it still would have been emails.

In answer to one of the questions you said that - I think it was in relation to the (not transcribable) policy it was in finance rooms and it was not common reading, do you remember that?---(NO AUDIBLE REPLY)

It's a complicated sort of document, do you agree with that?---I don't find it complicated but I like finance. No, I don't think it's complicated, I think it sets everything out.

40 All right. If you were going to employ someone and you had some doubt about the process you would contact someone either in human resources or finance?---Yes.

Or another division, procurement?---When they became a division, yes.

And it became ultimately three places you had to sort of go and look for to get advice about employing people?---Well, it depended on the process. I mean you'd go to HR first- - -

Yeah---?- -and they would tell you if you needed to go somewhere else.

Yeah, but it could be any one of three different departments within the University you had to go to about hiring someone?---Mmm, different steps, yes.

Yes. And that could have been Human Resources, Finance and then Procurement?---Yes.

10 And it depended on the nature of the job that you were creating and the, and the way that the person was going to hired?---Yes.

In terms of the Finance Department, there were various staff who were allocated to deal with ICT. Is that right?---Yes.

And one of those was Irma Torres?---Yes.

20 Is that the person you dealt with quite a lot?---For day-to-day finance work, yes.

So if you had an inquiry about employing someone and there was, you had some doubt about a process, you might approach her?---Probably not. I would have gone to Central Finance for that.

When I say approach, I might you might send them an email?---I'd more likely go and chat to her if I wanted to find something out from Irma.

30 Right. And similarly there were people at Human Resources who were dedicated or allocated to ICT?---Yes.

So you had a line of contact- -?---Yes.

- - -through to Human Resources and that included Mr Zhou?---Ah, yes, he was there.

Mr Ji Zhou?---Ah hmm.

Commonly known as Fang?---Yes.

40 And if you had a question you might flick him an email about a process- -? ---Yes.

- - -through the Human Resources department?---Yes, we had a lot of contact with him.

In fact there was a lot of contact with him, wasn't there?---At different times, yes.

Because if you wanted to create a position you would have to notify him, you'd have to fill in a particular form?---Yes.

A request to hire?---Yes.

That was a form you had to fill in, wasn't it?---Eventually, not early on.

So that was a process that only came in, when was it, 2010?---No, it was before that.

10

But before that- - ?---But exactly when I don't know.

Before that form came into existence and you wanted to hire someone, recruit someone, you would just contact HR and advise them?---Well, we had a request to advertise but it wasn't a request to hire at that stage, so it was a little less detail in the original documentation.

It was quite a complicated process to recruit someone at the Uni?---Can be.

20

And it took quite, if you went through the steps, it could take many many months, couldn't it?---Sometimes.

From the initial request, either request to hire or request to advertise, whatever the process was at the time, through to the final engagement of the person could take a long time?---Yes.

In two thousand, sorry, I withdraw that. In about, after '06 there was a restructure of information technology services within the University?---Yes, about then.

30

Up to a point each faculty might have had their own information technology people?---Yes.

And then in this restructure there was a centralisation of those services? ---The very beginning of it, yes.

Yes. Is that- - ?---It has taken a long time so it didn't happen that year.

40

That was, there was a plan?---But that was when the idea came and the plan, yes.

Yes. And there was already a centralised service, ICT?---Yes.

But when the, because of this restructure, that ICT group expanded quite significantly, didn't it?---It has done, yes.

And was it because of, I'll ask you this, was it because of that restructure process that the increased needs for short-term staff arose?---No. In, in the case of my staff, no- - -

Was it one of the reasons---?- - -it wasn't because of the centralisation, it was because of building works and moving people and various things like that where we just had a very short-term need for people to run around and fix up desktops.

10 And obviously you didn't need those people for permanent positions?---No.

And you couldn't – didn't have the time to go through the normal (not transcribable). I'll withdraw that. You didn't have time to go through the recruitment process?---The full recruitment, correct.

And so that's where you used contractors?---Yes.

20 Do you remember that in relation to contractors I think you said initially there was you know five tried to manage that within the University yourself, you had your own lists et cetera?---Yes.

When did that become unmanageable?---Well people just dropped off the list before we could call them, so you'd need somebody short-term and find there was nobody left that actually wanted employment and so you'd have to go out to the market again.

So there was a move to using recruitment agencies?---Yes.

30 Now are we talking about now just within your area or are you talking more broadly across ICT?---It was my area that really needed the short-term people so it was more there than some other places, but the idea was certainly there for all of ICT.

And as a result of that you ended up meeting agents from various recruitment organisations?---Yes.

One of those was Mr Kostogiannis?---In my best, I remember that he came into the office. I didn't meet him before we'd started employing people, no.

40 I think you said that you, the agents at that sort of a recruitment organisation Succuro, had come to your attention through Mr Demiralay?---Yes.

Is it the case (not transcribable) your memory of this that you had already been contacted by Mr Kostogiannis before Mr Demiralay spoke about Succuro?---No, I don't remember, I don't remember being contacted by Succuro at all. I'd never heard of them.

No, I'm talking in context of Mr Kostogiannis?---I don't remember that.

Okay. And the discussion you had with Mr Demiralay about Succuro or when he was talking about it and his involvement with it do you remember where that happened?---In the corridor.

At work?---It was just at work, yes.

And do you remember when it was?---Not exactly, but we were doing a lot of relocations in the January of 2007, so it was around then.

10

And could it have been that he told you that his wife had worked with Succuro?---Not in my memory, no.

All right. In terms of recruiting staff are you familiar with a process called on nomination, hiring someone on nomination?---We do it. I've heard of it, yes.

Yes. And is that a process where you – the hiring manager, are you familiar with that term?---The hiring manager?

20

Yes?---Ah hmm.

That's the person who's - - -?---Who's going to supervise it.

- - - who's going to supervise, would nominate someone for a position and they would be directly appointed to it. I'm happy for you to describe it some other way if that's not your understanding?---Yep. On nomination is usually used for, not for a permanent recruitment. They can put a person in on nomination, yes.

30

Let's clarify that, for a position that might be for six to 12 months say - - -? ---Yes.

- - - you could recruit someone using this on nomination process?---Yes, you can.

And that is where the hiring manager, as it says, nominates a person and they are appointed to it?---Can be.

40

And if that's used, and it's a legitimate process within the University?---But you're talking about people who are already employed by the University?

No. I was just talking in general terms, if you could do that?---No, I didn't think you could do that. I thought even six to 12 months one had to actually advertise for it.

But if someone was recruited and hired on nomination it then meant you didn't go through that recruitment process of requesting to hire or requesting

to advertise, putting an ad either internally or externally, having selection meetings, et cetera?---That's true.

ASSISTANT COMMISSIONER: Mr Gibson, we might take the morning break at this time.

MR GIBSON: Certainly, Commissioner.

ASSISTANT COMMISSIONER: We'll adjourn for fifteen minutes.

10

SHORT ADJOURNMENT

[11:45am]

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

MR GIBSON: Commissioner, I've changed position as the Commission's monitor tells me my microphone wasn't working. We'll see how we go.

20

Ms McCabe, I was asking you some questions about the process of appointing someone on nomination?---On nomination.

Do you remember that?---Yes.

With that process, like all other recruitment processes, various forms have to go up through the appropriate department for approval, didn't they?---Yes.

30

So if someone was nominated and for instance they were external and that wasn't allowed you would expect that someone somewhere would pick that up?---One would expect.

So that if someone was nominated to a position and they couldn't have been because of the policy at the time someone either in procurement or finance, human resources would have picked that up and rejected the applicant, rejected the nomination?---If it was clear that it was a nomination.

Yes. Well, it would have been - I withdraw that. You were on a number of Selection Committees?---Yes, I have been.

40

And if you're looking at someone's CV for example, there's an applicant, and there was a, their last 12 months of employment would you expect to see a referee from that last 12 months of employment normally, the most recent employment?---Normally one does, sometimes not if they don't want that particular place to know they've applied at that stage.

So if someone had been working within the University, either technically externally or internally, you might expect that their immediate supervisor would be nominated as a referee?---Yes.

And of course the referee that is nominated could be seen by all the Selection Committee?---Yes.

10 And would be known to all the people on the Selection Committee, you would assume?---Meaning that referee was known or - - -

I'll rephrase that. I'll rephrase it?---Okay.

The names of the referees could be seen by the people on the selection panel?---Yes.

And in fact there were reference checks made weren't there?---Yes.

20 And sometimes depending on the notes with the recruitment the reference checks were made by someone in Human Resources?---Yes.

That is independent of the Selection Committee?---Yes.

So again there would be another person independent of the Selection Committee who would be aware of aware of who the referee – the named referees were?---Yes.

Now you had working for you at some stage a person, an Erin Normoyle? ---Yes.

30 I think she was originally a contractor?---Yes.

What recruitment agency did she come from?---She was through Succuro.

And did you recruit her?---Yes.

Yes. Were you the hiring manager?---Yes, I was.

40 Okay. And to recruit her did you have a formal Selection Committee, et cetera or was there a less formal process?---There was a less formal process because it was for a very short term in the first place.

And that was the case wasn't it that for short term contracts there was no formal process set down by the University for recruitment?---No, there wasn't.

There was a less formal procedure than hiring for a permanent position? ---Yes.

It might involve looking at the CV's of applicants, selecting the preferred applicant and interviewing that person?---It depends how short term, generally I've always found two or three, not just one.

Would that be the case even if you were recruiting someone for a week?
---No.

Okay?---That's why I said it depends on the time, a week no. It's just I'd select a person - - -

10

You would select a person (not transcribable)?---Correct.

So the nature of the process might depend on the length of the engagement?
---Yes.

Anyway we've talked about just normal, normal - - -?---Ah hmm.

- - - she was a contractor initially for a short period?---Yes.

20

And then you wanted – I'll withdraw that. Is it the case a permanent position came up in your area?---Yes.

And she was someone who in your view could fill that position?---Yes.

She did fill that position didn't she?---Yes.

And was the position advertised?---No, not at that stage.

Ever?---I don't think so.

30

And how was she appointed?---She was appointed through the provision that she had been there a long time and there was then an ongoing need for a position and so we recruited her on that basis.

So there was no - - -?---She - - -

Sorry?---That one's actually started by herself that she could apply to have it converted to full time.

40

So this is a different part of the recruitment policy that - - -?---Yes.

- - - of, of applying to change someone's status?---Yes.

So it avoided the, I'll call it the standard recruitment policy of advertising, the Selection Committee, et cetera?---It's another standard because it's part of the recruitment policy.

There was some issue about a placement fee for her from Succuro.
Correct?---Yes.

Through various email communication eventually that was – there was no –
the placement fee was waived?---Yes.

You, that was in about June of 2008. Do you remember that?---Ah hmm. I
think it was the June, wasn't it?

10 Please refer to the emails?---I am, 5 June, yes.

And then there's another email which is in July of 2008 from Bill Mylonas?
---Yes.

By that meeting of July 2008, the issue of the placement fee had been
resolved, hadn't it?---It was resolved on 5 June.

Yeah?---Yes.

20 And so that meeting in July was not about the placement fee?---No.

It was a general meet and greet- - -?---Yes.

- - -with Bill Mylonas?---Yes.

He had taken over from Mr Kostogiannis at Succuro?---I didn't know that.

Thank you.

30 ASSISTANT COMMISSIONER: Thank you, Mr Gibson. Yes, Mr
McIlwaine?

MR McILWAINE: Commissioner, I seek to ask some questions of the
witness on behalf of Mr Mylonas?

ASSISTANT COMMISSIONER: Yes.

40 MR McILWAINE: Ms McCabe, in the period 2009/2010, just prior to that,
had there been, had there been a significant change in the amount of work
required by the ICT because the IT sections of the various faculties were
being merged under the ICT? Is that correct?---You are talking about 2009
and 10, that's after this.

Yes?---So 2009 and 10- - -

The financial years June 2008 to June 2009 and- - -?---Ah hmm.

- - -June 2009 to 2010, to be precise?---And what was the question about it, sorry?

Was there an increased demand upon ICT, particularly for desktop-type services, because the various faculties were merging their IT sections in under ICT? Is that correct?---That's correct.

10 Okay. And that structural change caused an, as indicated and put to you before, an increase in the demand by the University for desktop-type workers, IT workers. Correct?---Definitely.

And it would not surprise you that in those circumstances there was an increase in the amount paid by the University for such employees through contractors. Do you agree with that?---It wouldn't surprise me.

20 Now, in relation to the emails which you've just been taken to which are at page 22 of the attachment to your statement which I think you, you have, it's clear from those that on a Tuesday, on the Thursday before 14 July, 2008, which I suggest to you would be - - ?---Ah hmm.

- - -10 July, 2008, you met Mr Mylonas. Correct?---The Thursday, that would the 9th I think, isn't it?

Well- - ?---Whatever date, the Thursday.

The Thursday before 14 July?---Apparently we met, we met that day, yes.

30 But your evidence is you have absolutely no recollection of that meeting. Is that correct?---It didn't mean anything special so it was just something that happened in the normal course of the day.

And the only, but you accept because of the existence of that email that the meeting must have taken place. Correct?---Yes.

I want to suggest to you that at that meeting with Mr Mylonas, only yourself and he was present. I take it from your evidence you can't agree with or deny that proposition?---No, I can't.

40 And I suggest to you that in the course of that conversation, there was absolutely no discussion with Mr Mylonas about any need for any contract to be created in relation to the employment of Succuro staff to the University. What do you say about that proposition?---It's possible. I don't remember the meeting so I don't know what we discussed.

So going back to your email of 5 June, which I think you have in front of you?---Yes.

Page 22. You say - firstly, you were concerned that if Erin Normoyle was employed on a permanent basis that the University might be liable for some fee to be paid to Succuro, correct?---Correct.

I think you said in your evidence that's because Erin Normoyle told you that there was such a suggestion or was that - - -?---It was a suggestion that had been made to her from what I remember, yes.

10 Do you, do you remember that or is it something you discerned just from your own knowledge and experience of employment contracts?---No, I know that she actually came to me, we were discussing her becoming a permanent and she raised it.

But the fact that a contractor who had supplied staff to the employ, to the University and that staff member was now going to become permanent - - -? ---Ah hmm.

- - - might seek a fee is not something that would surprise you, correct? ---No.

20 It's usual industry practice, correct?---Yes.

You then of course quite properly went to see if there was a contract about this subject, is that correct?---I knew there wasn't one. We'd never had, had one with Succuro at that stage.

Well, you'd never seen one?---Okay, I'd never seen one.

30 And you in fact said in your email, in the final paragraph, on another matter, "I cannot find a copy of any contract between Succuro - - -?---Ah hmm.

- - - and the University". So do you recall now whether you went looking for one or you just - - -?---No, I don't recall any of it.

Okay. So in this email to Mr Kostogiannis you raised a concern that there was no such contract and that you would like the opportunity to discuss that issue with him, correct?---Yes.

40 Now - but then the particular problem was resolved, correct?---Correct.

And you subsequently spoke to Mr Mylonas, correct?---Ah hmm.

About a month later?---Yeah.

You didn't raise the problem with him, correct?---Don't know.

Well - - -?---I don't know what I raised with him.

- - - I suggest you didn't. You can't deny the proposition that you didn't?
---No.

Did you do anything else after 5 June, 2008 to address the issue of a lack of a contract being in existence for the employment of staff through Succuro?

---Myself, no.

Did you raise it with anybody else?---To my memory, I really don't know whether I did or not. I can guess things but that's not (not transcribable)

10

Right. You have no recollection today - - -?---I have no recollection of doing it.

- - - of raising that matter with anyone else?---No.

Now, the people that were being employed through Succuro, you'd had the opportunity to observe their work, correct?---Yes.

And particularly in regard to Ms Normoyle - - -?---Yes.

20

- - - you'd observed her work. I take it you - - -?---Obviously I did, yes.

I take it you were impressed with her work?---I was very happy with her work, yes.

And I suggest to you that the situation was from your understanding that the people in the University dealing with Succuro were happy with the service that Succuro was providing, correct?---Certainly happy with the staff we were getting.

30

So I take it therefore that because you were happy with the staff Succuro were providing you were content to continue with the current arrangement with Succuro notwithstanding the non-existence of any contract, correct?
---For the short term people that I was looking at, yes.

Okay.

ASSISTANT COMMISSIONER: Of course without any competitor process you couldn't know whether the rate which Succuro were providing people was, was the best rate you could get, could you?---Well, we still had other recruitment agencies we were using for longer term people so we had an idea the rates were comparable and they didn't change particularly, certainly while I was looking at people coming in.

40

So in your statement you mentioned Julia Ross Recruitment and Ambition Recruitment?---Ah hmm.

Did they continue to provide - - -?---Not the short term people, the reason that we were looking around early in 2007 was because those groups had started saying they, they couldn't keep on the lists of short term people so they were going into the longer term contracts and we still kept calling those.

Right?---Okay.

Yes, thank you for that. Yes.

10

MR GOLLAN: I seek leave to ask a couple of questions.

ASSISTANT COMMISSIONER: On behalf of?

MR GOLLAN: Mr Pigot.

ASSISTANT COMMISSIONER: Yes.

MR GOLLAN: Just picking up on the paragraph that the learned
20 Commissioner identified at paragraph 35 of your statement, if you could just have a look at that, that speaks about the main recruitment agencies being Julia Ross Recruitment and Ambition?---Ah hmm.

And if I can just ask you to observe then what you say in paragraph 36, being that the managers understood our requirements and needs. Can you see that?---Yes.

Is it – was it your experience over that period of time that regardless of
30 whether or not there was a panel or there wasn't a panel that you found yourself turning to particular managers who understood your product and understood the requirements of the University?---What do you mean a panel or not a panel?

Well at that stage - - -?---You're talking about a panel of recruitment agents?

Correct?---Okay. Because there wasn't one at that time - - -

Correct?--- - - - but yes, these were people that the account managers had
40 actually spoken to, so they did understand the types of people we were wanting and then we would always send them a brief for the longer term contractors anyway, send them like a duty statement of what we wanted from the person anyway.

It was a matter of convenience and efficiency because of the relationship between both the people at the University, whomever it may be, but from your perspective?---Ah hmm.

And their involvement in previous recruitment. Correct?---Correct.

Thank you.

ASSISTANT COMMISSIONER: Thank you Mr Gollan. Yes, Ms McGlinchey.

MS McGLINCHEY: Ms - - -

10 ASSISTANT COMMISSIONER: Ms McGlinchey, sorry, could you just tell the witness whose interest you're representing and questioning.

MS McGLINCHEY: Thank you. Ms McCabe, I represent Mr Tsipidis?
---Yes.

Ms McCabe, I think that you said that you've worked at the University for 12 years. Is that correct?---Is it that long? Yes.

20 You said you started at - - -?---I'm getting a bit old in the place.

All right. About 2000?---I started at the end of 2000, November 2000.

Okay. Or a little bit longer than that. You, your career before that was within other educational facilities or - - -?---That's right. I came from New South Wales University and before that from UWS.

So a fairly long history of experience working in educational facilities?
---Yes.

30 Now Counsel Assisting asked you some questions about how you would conduct yourself on an interview panel, whether you're part of the panel and you've given some evidence on how you would handle various scenarios that Counsel Assisting put to you?---Yes.

How you had quite a bit of experience on interview panels?---A fair bit.

Both at Sydney University and - - -?---At all the universities, yes.

40 So pretty much over your whole career you've done a lot of interviews?
---Yes.

Could you have a guess at how many panels you've sat on?---Well it's in the hundreds, but I don't know exactly how many.

All right. How did you learn how to conduct yourself on an interview panel?---At UWS I did go to, to training on interviewing techniques and the recruitment process. And I've also had a little bit – at Sydney we did some on different types of interviewing questions and things. So I've done a little

bit of training, but the rest is by being with good managers who brought me in on panels and taught me by being there.

All right?---Experience.

And to your knowledge is there – at Sydney University now, is there a manual that you can go to on how to conduct yourself if you are part of a panel?---I've never seen one.

- 10 So you've said you've done a little bit of training at Sydney University on how to, how to direct questions. Would that be correct?---There were specific techniques, yes.

All right. So would that have entailed anything about declaring conflicts of interest?---No, it wasn't that. It was very specific on a type of questioning that some panels wanted.

- 20 All right. You were asked a question from Counsel Assisting about whether – in a situation where you found yourself that there was a potential that you would be interviewing, you're part of a panel and a relative of yours would be the interviewee and you were very definite that you would put your hand up to that and that wouldn't happen?---Yes.

I think you said that, but that's just me. Is that what you said or have I got that right?---No, I said that.

All right. And what did you mean by that?---I meant I don't know that everybody would do exactly the same, it's just my personal opinion.

- 30 Have you ever been given any directions about that?---Well it's just part of the is it the corruption one, anyway, it just shouldn't be there if there was some conflict of interest for panels or for anything else, so that may have actually come from my very first training at UWS, it's just, I couldn't give you a date when I'd thought that or, or felt that, sorry.

- 40 Thank you. Now, I think that you were also asked questions and you said that if you thought that there was a conflict of interest within the panel, a panel where you were sitting, that you would declare, you would feel an obligation to declare that conflict of interest to your other panel members? ---Yes.

Right. And, and I think you said that there was, within panels that you have sat there's a general sharing of knowledge?---Yes.

Is that just about conflict of interest or about other things?---Well, that, that's everything to do with the, with the applicants, with the applications themselves, it's a discussion for the shortlist so it's an open discussion, that sort of thing comes up, but it's not just about corruption.

And is it also about matters that are disclosed in the CV's?---Yes.

Right. And what about matters not disclosed in the CV's, just your personal knowledge about those interviewees?---That's why you say you know them first, so you can dissociate yourself from a lot of that discussion, but if people specifically ask for something then generally I'd answer.

10 This may have been answered in other questions, but could you just clarify for me, what's the process of deciding if a, if a permanent position in ITC will be internally advertised or externally advertised?---I don't know what they're doing right now because I'm not doing any, pretty much any recruitment at all. When, when it was allowable to actually do it internally it was partly on the level, because there was a level, and I can't remember which one it was, but a level or position where they had to be advertised outside no matter what, under that level you could then advertise internally to see if there was somebody either internal to ICT or anywhere else in the University would, could do the job before you actually advertised it externally. And that's really what we based the decision on.

20

And is that in a policy somewhere, is that, can we go and read that?---It was, but I haven't read the policy lately so I'm not sure what's still there.

What would be the policy called?---Staff Recruitment Policy I would imagine. I can't remember.

And there was a Recruitment Policy in 2009?---Yes.

30 Who decides who makes up the panel?---Generally the, whoever is going to be chairing that particular panel, so the hiring manager or whoever they report to, and then that has to be sent to HR.

Okay. So the names, possible names for the recruitment panel go to HR? ---Yes, they do.

And HR then, have you ever known a situation where they're vetoed names on a (not transcribable) panel?---Not personally, no.

40 And (not transcribable) we've heard in Counsel Assisting's opening about situations where contractors have been on panels?---Yes.

Are you aware of that as a general practice?---Yeah, I would imagine it's reasonably common.

You're not aware of any rule that vetoes that?---No.

And in any case, HR would have the responsibility of putting a big line through that if it was not acceptable?---Yeah.

That's all, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Ms McGlinchey. Yes, if there's nothing else, this witness may be excused. Yes?

MS OAKLEY: (not transcribable) be excused, thanks.

10 ASSISTANT COMMISSIONER: Thank you. Yes. Thank you for your attendance, you are now excused?---Thank you very much.

THE WITNESS EXCUSED

[12.29pm]

MR MORRIS: May it please the Commission, the next witness to be called is Mr Ji Fang Zhou.

20 ASSISTANT COMMISSIONER: Yes?

MS OAKLEY: Could I appear for Mr Zhou?

ASSISTANT COMMISSIONER: Yes, Ms Oakley.

MS OAKLEY: And I ask for a section 38.

30 ASSISTANT COMMISSIONER: Yes, Mr Zhou, you've been called here to give evidence and you are required to answer all of the questions asked of you. Your counsel has indicated that you're seeking a section 38 declaration. The effect of this is that nothing you say can be used against you in any future proceedings unless it's found that you've breached the Act by in some way providing false information or in some other way. Do you understand the effect of the order?

MR ZHOU: Yes, I do.

40 ASSISTANT COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT
ALL ANSWERS GIVEN BY THIS WITNESS AND ALL**

DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

10 ASSISTANT COMMISSIONER: Mr Zhou, you're required to take an oath or make an affirmation to tell the truth.

MR ZHOU: I'd like to take an oath, please.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Yes, Mr Morris.

MR MORRIS: Your full name is Ji, spelt J-I, Fang, F-A-N-G, Zhou, Z-H-O-U?---That's correct.

And your occupation is a lead recruitment consultant?---That's correct.

10

And did you give a statement to investigators on 19 September, 2011?---I don't remember the date but, yeah, I did give a statement.

You were just looking at a document. Is that a copy of the statement?
---Yes, it is.

Yeah. Might I just hand this document to you which is another copy. Is that a true and correct copy of the statement that you made to investigators?
---Yes.

20

And are the statements made in it by you true and correct?---I discussed just two minor changes with my barrister this morning.

Right?---I don't know if they've been included.

Right. But they are changes to paragraphs 132, is that correct?---Yes, and 133.

30

Yes. And 132, what change would you like to make?---So I'll just read it out. I'm not aware of any declarations made by Mr Demiralay that that he had any personal interest in any external recruitment agencies which were providing the services or contractors to the University especially within ICT.

Okay. So you'd wish to delete the words in paragraph 132 "current or prior association or involvement" - sorry, "with" and replace it with the words "personal interest in", is that correct?---That's correct.

40

Now as to paragraph 133 your counsel has - this will make it quicker, will make it - your counsel has indicated to me that you would wish to, from the third line, delete the words "personal or business relationship" - - -?---Ah
hmm.

- - - and insert the word "involvement"?---That's correct.

All right. And after the words "university" in the last line you wish to insert the words "that required disclosure under the current policy"?---That's correct.

Is that correct? Now, Commissioner, I seek to tender that statement but with one qualification and that is that I do not read paragraph 65 of the statement which specifically relates to an issue which seems to have fallen by the wayside.

ASSISTANT COMMISSIONER: Well, do you want that paragraph suppressed?

10 MR MORRIS: Yes, your Honour.

ASSISTANT COMMISSIONER: Yes. All right. Well, the statement of Mr Zhou will be Exhibit 4 and in respect of paragraph 65 of that statement I make a suppression order.

THE STATEMENT OF MR ZHOU WILL BE EXHIBIT 4 AND IN RESPECT OF PARAGRAPH 65 OF THAT STATEMENT I MAKE A SUPPRESSION ORDER.

20

#EXHIBIT 4 - STATEMENT OF JI FANG ZHOU DATED 19 SEPTEMBER 2011

MR MORRIS: Now, Mr Zhou, you say that you were with the Human Resources Business Unit since 2009, you say that in paragraph 3, but you've been with the University since October 2003?---I have been with the University since October 2003. I, I have held the current position, lead recruitment consultant since 2009.

30

Right?---I have been with HR since, since the start of my employment with the University.

So before 2009 what was your role in the Human- - -?---Senior recruitment consultant.

Right?---Yeah.

40 Okay. So it's an elevation, is it?---Yeah, yeah, yeah, in title if not in salary.

All right. Now, you set out in your statement the system by which recruitment and selection processes take place within the various business units. Is that correct?---That's correct, yeah.

And when we're dealing with business units we're also talking about the ICT. Is that correct?---That's right.

And you set out the simple system, in summary a hiring manager determines that a recruitment is necessary?---Yes.

Right. That the person that they wish to engage will be a fixed-term or continuing employee?---That's I guess my involvement with recruitment of fixed-term or permanent positions.

Right?---There can be other types of recruitment.

10 I understand that in so far as your statement sets out, a hiring manager makes a decision that somebody is needed. Is that correct?---That's correct, yeah.

And they contact you. Is that correct?---That's, that's right, yeah.

And just tell the Commission in simple terms what then follows in the ordinary course?---Okay. So there have been various changes to the process over the years, so the current process is myself or a member of the recruitment team would raise a requisition for the job, for the recruitment
20 job, and send a request to hire form to the hiring manager- - -

Yeah---?- - -with a unique reference number. That form would need to be filled in and approved which then gives us the permission to go ahead and advertise and recruit that position.

Right. Just holding it there, who gives that approval?---The, there are specified people who need to approve the request to hire, so that includes the hiring manager, HR, the HR adviser, the Finance person responsible for the area, the hiring manager's manager, the delegated authority and in some
30 cases if the position is newly-created or if it needs to be externally advertised, then the relevant deputy vice chancellor as well.

Okay. Just going back to those people that we mentioned just previously to make it clear, hiring manager, hiring manager's supervisor, HR person and Finance person, they are all people within the relevant business unit who are seeking the appointment. Is that correct?---More or less. So the HR and finance person have a formal reporting relationship into the HR or the Finance business unit.

40 Right?---But their day-to-day job is to service ICT or, you know, whatever their, their portfolio of responsibility is.

Right. Now, then once that happens, how does advertising take place and what are the variables?---So I as the recruitment consultant would discuss the advertising strategy with the hiring manager, so that includes whether we advertise internally or internal and external, and you know, which media options we use for advertising.

So just in relation to the internal/external distinction, would you kindly tell the Commission what the difference is and in so far as you're aware, why it exists?---It's, it was there when I joined the University so not exactly sure what the rationale is, but I guess the difference is, internal advertising is open to current University staff and students only and external, internal and external advertising is open to any candidate.

So both members of the current staff or students or external members?---
That's correct.

10

Now in terms of a contractor employed at the University are they eligible to apply for an internally advertised position?---There was a change. A decision was made several years ago, I think it's in my statement, but I don't remember the date just at the minute, but there was a decision made that external – contractors count only as external applicants, not internal.

Right?---But before that I think the, there were, well there were some inconsistent interpretation where the contractors were internal or external candidates.

20

Okay. So we'll go to your statement for greater detail in relation to that shall we?---Yeah.

Now in so far as paragraph really 28 and following you talk about Selection Committees, sorry, it's about paragraph 23 onwards, you talk about Selection Committees and as I understand it in very short order, the advertisement takes place, applicants' curriculum vitae are considered and short listed and a selection is made - a determination is made as to the extent to which those applicants can fulfil the responsibility set out in a duty statement. Is that correct?---Yes. Yep, that's correct.

30

The duty statement is published as part of the advertising process. Is that correct?---It is, yep.

The duty statement is generated by the hiring manager and given to you, is it?---Yeah, it is generated by the hiring manager. Sometimes the hiring manager would consult with the relevant HR advisor to develop that duty statement. And currently under request to hire process the HR advisor examines the duty statement or the position description before he signs, signs off on the request to hire form.

40

But the – are comparisons made between when the applications come in are comparisons made between the duty statement and the applicants and there's a short list drafted up. Is that correct?---That's correct. Yep.

Who's responsible for preparing that short list?---The chair of the Selection Committee is responsible for the final decision in consultation with other Committee members.

Okay. So is the short listing prior to interview does that take place by the hiring manager or does that take place by the Selection Committee?--- Usually it's – the applications are sent to the whole Selection Committee. And those who are available, you know, read the applications and put forward their selections for the candidate and the chair at the end is responsible for collating everyone's views and then making that final decision on what the short list is.

- 10 Right. And is that something that would ordinarily be recorded in email correspondence or in a formal document?---Yeah, it's usually communicated by email.

Okay. Now thereafter – sorry just let's go back a step, who puts together the Selection Committee and what are the obligations or requirements for a Selection Committee at the University?---Usually the chair would propose the members for the Selection Committee and that membership is recorded on the request to hire form.

- 20 Who appoints the chair?---Well usually it's the person who manages that vacancy, the position that we're trying to recruit.

What are we talking about the hiring manager here?---Yes, usually.

And so the hiring manager then appoints the other committee members? ---Yeah, that's correct. And it's recorded on the request to hire and yeah, the request to hire then gets approved.

- 30 And there are certain formal requirements are there for the – under University policies for who should be on Selection Committees and what information should be available to them and so on and so forth. Is that correct?---Yeah, there are documented formal requirements on what the Selection Committee should consist of.

And one of the issues there is the provision of referee reports, is that correct?---Sorry - - -

- 40 The provision of - sorry, you've got the Selection Committee, the policies will speak for themselves as to how the Selection Committee's comprised, do you agree with that?---Yes, yes, that's right.

And the documents that they require, the policies of the University will speak for themselves there but insofar as you're aware if you were sitting on a Selection Committee report what would you expect - sorry, on a Selection Committee, what would you expect to be given as part of that process? ---As in documents, you mean?

Yes?---I would expect to be given the duty statement or the position description, all the applications that have been received for the position minus the - HR does the initial screening process of all the applications so we - usually we send the candidates that are suitable or potentially suitable through to the Selection Committee and we don't send the applications of the unsuitable candidates.

10 Right?---So, yeah, I'll just clarify that. So yeah, candidate applications and interview questions so, yeah, they could be prepared before the interview or prepared on the day, just before the interview start. I would expect to see the references for the successful candidate and a copy of the Selection Committee report.

And what about the referees' reports, would you - - -?---Yeah, yeah.

- - - expect to see that?---References, yeah, referee reports, yeah.

20 So not only the references themselves but referees - - -?---Well, to me they're the same thing.

Okay?---Yeah.

Righto. Now, was there any formal training given to people about how the selection and recruitment process worked?---There is recruitment selection training conducted by the University. As far as I know it is not compulsory so people elect to, to attend that training.

30 Now in terms of - at paragraph 32 of your statement you say it would not be appropriate for a Selection Committee member to provide a reference for a candidate who they have just selected as the preferred candidate for a particular position at the University, right?---That is correct.

And what I'd like to do is just examine how the Selection Committee members, what obligations they have with respect to the applicants and each other in relation to communicating issues which may affect their judgment, all right?---Ah hmm, yeah.

And in particular in relation to conflict of interest of whatever sort?---Okay.

40 Now insofar as Selection Committees are concerned, what would you consider would give rise to a potential conflict of interest?---Any sort of personal relationship with any of the candidates, yeah, I guess, you know, certainly commercial, prior commercial associations, relationships, you know, not including having worked with someone as a colleague in another organisation but if they had done business together in the past then yeah, I think that, that would need to be declared.

And I was - you just say I think that would need to be declared, insofar as a Selection Committee member having identified a conflict of interest, firstly you'd expect them to identify any conflict of interest. Is that correct?
---That's correct, yeah.

Yeah. Now, whether that is by reason of recognising a relationship through recognising the name on a job application or recognising them visually when they end up appearing in front of the Selection Committee at interview- - -?---Ah hmm.

10

- - -you would expect them to be able to identify that relationship. Correct?
---Yeah, I would expect a committee member to be able to identify when they see the application, see somebody's name.

Yeah?---Yeah.

And then you would expect them to articulate to the other selection members the fact that a potential or actual conflict exists. Correct?
---Yeah, that's correct.

20

In other words, to declare it?---Yes.

And what is the purpose of that?---So that the conflict of interest or potential conflict of interest can be discussed within the committee and then appropriate action taken to mitigate the risk.

30

Right. Now, would the appropriate action including, include for instance the person who declared the conflict or potential conflict stepping back on expressing a view on a particular issue that comes up with the Selection Committee?---I'm not sure what you mean by a particular issue, but it would normally involve a person stepping back from the selection process altogether, so taking himself or herself out of the selection process or, or I guess the other common option is just to make, making, making all the other Selection Committee members aware of any prior relationships.

Depending on the extent of the conflict?---Yeah.

They're the choices you've got?---Correct, yeah.

40

All right. Now, what about potential conflicts of interest as between Selection Committee members? And what I'm talking about, obviously they're got a working relationship you would expect- - -?---Yeah.

- - -within the University, right?---That's right, yeah.

But what about disclosing interests over and above that working relationship?---That has not come up often. Usually we talk about any prior relationships with the candidate. If there were relationships between the

Selection Committee members beyond a normal working relationship I think it would be appropriate to discuss that with the rest of the committee as well, just to make sure that the committee is independent and is, you know, represents a diverse range of views.

Would there be any reason in either of those instances, do you think any valid reason to conceal any prior relationship?---I can't think of one, no.

10 So what would your view be - -?---There may be some private personal information that you don't want to tell other people, but you know, you can still make a declaration and put it into more general terms.

Right. But what would your view be about a Selection Committee member sitting upon a Selection Committee which was assessing the appointment of somebody related by marriage and failing to disclose that relationship? ---I think that would be inappropriate.

20 Right. And going beyond inappropriate, what would you expect the Selection Committee member to do if that issue was, that relationship was recognised by them?---I would expect the Selection Committee member to declare that relationship to the rest of the Selection Committee and then remove themselves from the selection process.

30 Okay. Now what about a situation where a Selection Committee member recognises that an applicant has a reasonably close social or personal relationship with the Selection Committee member?---I think that's less severe than the last example so, you know, it's quite common that people socialise with their work colleagues so, you know, we would have to consider on a case by case basis consider the, I guess the, the potential conflict of interest, how severe it would be and then take appropriate action.

But given that it is a fairly common experience that people socialise outside of work and so forth there would be no relevant impediment or shame to making that disclosure, would there?---I wouldn't think so - - -

No?--- - - - in general terms.

40 In fact the obligation on the Selection Committee member would be to make the disclosure rather than to conceal it, is that correct?---Yeah. There, there is a obligation to make the disclosure, yeah.

And would you see the failure to disclose to be a serious matter?---It depends on obviously the circumstances so I think generally speaking people should declare any personal or business relationships with candidates. If, if it was a, I guess, you know, something at the level of a close relative or a, you know, friend, a really close friend who they've known for 20 years then, you know, non-disclosure I would say, I would say is serious.

But one of the purposes of disclosure is to enable, enable the other Selection Committee members to come to a balanced view, not only of the applicant but any views that the person declaring the interest may express during the meeting, is that correct?---Yeah, that's right, yeah.

Now what about whether it's appropriate for a Selection Committee member to provide a reference or be nominated as a referee for a particular applicant?---That's not accepted under University recruitment practice.

10

Now you've set out a number of examples of – in your statement of applications for Adrian Buxton, Tim Passe-De-Silva, Peter Smeros et cetera?---Yes.

Now just in relation to Peter Smeros, he I think prior to the – he was a contractor at the University - - -?---That's right.

- - - prior to his appointment to a permanent position. Correct?---That's correct.

20

Some advertising took place and there was a closure date for applications. Is that correct?---That's correct, yeah, for, for the permanent employment do you mean?

Yes?---Yeah.

And you say that you received an email from Mr Tsipidis stating that they'd received the late application to be considered?---That's right.

30 Being Mr Smeros?---Yes.

Now if Mr Smeros had a personal relationship with Mr Demiralay outside – prior to his employment as a contractor, would you expect that to be disclosed at the time that the application was made to have his name included after closure under the advertising process?---Yes, I would expect a declaration to be made as, as soon as possible after the application was received.

40 All right. Now if there was a friendship prior to and outside the contracting relationship at the University of Sydney between Mr Smeros and Mr Demiralay would you expect that to be disclosed if Mr – during the assessment process – the staff selection process?---Yes, I do expect that to be disclosed.

Now it's – did you know – are you saying in paragraph 76 of your statement did you know that Mr Tsipidis was related by marriage to Mr Demiralay? ---No, I didn't know that.

Has it come to you as a surprise to find that out?---Yes, it has.

All right. Does it cause you any concern regarding some of the Selection Committees with which you've been involved?---Yeah, in retrospect I think, yeah, I would be concerned that no declaration was made and certainly I would, I would have recommended a different composition of the Selection Committee membership for Mr Tshipidis' appointment.

Okay. Your Honour, I note the time. Is that a convenient time?

10

ASSISTANT COMMISSIONER: Oh yes, yes. We'll, we'll adjourn at this time until 2 o'clock.

LUNCHEON ADJOURNMENT

[1:02pm]