

CITRUSPUB00106
21/03/2012

CITRUS
pp 00106-00164

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION CITRUS

Reference: Operation E10/1831

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 21 MARCH 2012

AT 10.00AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

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

MR MORRIS: Thank you, Commissioner. The next witness is a gentleman by the name of David Gareth Anderson. He prepared a statement on 4 April, 2011. A copy of which I hand up together with a copy for the witness and copies of the statements are being distributed to the other parties.

10 ASSISTANT COMMISSIONER: Thank you. Yes, well a statement of David Anderson dated 4 April, 2011 will be Exhibit 17.

#EXHIBIT 17 - STATEMENT OF MR ANDERSON DATED 4 APRIL 2011

MR MORRIS: I understand he's available to be called.

20 ASSISTANT COMMISSIONER: Yes. Is Mr Anderson here? No.

MR MORRIS: Apparently he's outside.

ASSISTANT COMMISSIONER: All right. We'll get him. You're Mr Anderson?

MR ANDERSON: Yeah, correct.

30 ASSISTANT COMMISSIONER: Mr Anderson, you're not legally represented?

MR ANDERSON: No.

ASSISTANT COMMISSIONER: You've been called here to give evidence before this inquiry and you are required to answer all of the questions asked of you.

MR ANDERSON: Ah hmm.

40 ASSISTANT COMMISSIONER: You may seek a declaration the effect of which would be that nothing you say here can be used against you in any future civil, criminal or disciplinary proceedings.

MR ANDERSON: Ah hmm.

ASSISTANT COMMISSIONER: Do you wish to seek an order on those terms?

MR ANDERSON: Yep.

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 accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

10

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 ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

20

ASSISTANT COMMISSIONER: Mr Anderson, the effect of that order is that nothing you say can be used against you in future proceedings. The only exception to that is if it's found you've breached the Act by providing false or misleading information - - -

MR ANDERSON: Yep.

30 ASSISTANT COMMISSIONER: - - - in which case it could be used. Do you understand that?

MR ANDERSON: Yeah, yeah.

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

MR ANDERSON: Either or, it doesn't really matter.

40 ASSISTANT COMMISSIONER: You'll take an oath on the Bible?

MR ANDERSON: We'll go affirmation.

ASSISTANT COMMISSIONER: The affirmation. Thank you.

<DAVID GARETH ANDERSON, affirmed

[10:06am]

MR MORRIS: Is your full name David Gareth Anderson?---Yes.

And you're in IT professional by occupation?---Yeah, correct.

And you provided a statement to investigators on the 4 April, 2011?---Yep.

Do you have a copy of that in front of you?---No.

10

I'll just have one handed to you?---Cheers.

Just have a look at that document of four pages, is that your statement?---Do you want me to read it in its entirety?

No. Well just have a look at this, do you recognise it as being your statement?---The first page, yep. Second page, yep. Again the third page, the whole thing.

20

Right. Now is that statement true and correct?---Correct.

Now you say in paragraph 4 that from October 2009 until June 2011 you worked as a contractor for Succuro Recruitment?---That's not true.

Right. How would you wish to change it if at all?---It says here October 2008 to June 2009.

And when were you - - -?---That's right. Was that what you just said though?

30

Yes?---I thought you said 2011.

Oh, did I?---Yeah.

Well I'm sorry, your Honour. He's a brighter witness than the examiner. I'm sorry. October 2008 to June 2009 you worked for Succuro Recruitment?---Correct.

40

All right. Now you say in paragraph 4 that you became a contractor after applying for a desktop support position on website?---Correct. Correct.

And you'd previously never worked for them?---No.

Had you ever heard of them before?---No.

And the first contact you had was with a Mr Bill Mylonas?---Yeah, correct.

Right. You'd seen – by the time you were contacted by him you'd sent your resume through?---Yes. I sent my resume it would have been either a Friday evening or a Saturday/Sunday. On the Monday about 7.30 to 8 o'clock I got a call from him saying it fits the bill, he'd like to get me in for an interview.

10 Right. And you actually – did you have an interview with Bill Mylonas at all?---No, he gave me a call back about half an hour later and he said it wouldn't be necessary, he'll just tee one up with the two team leaders that I'd be applying for the job with at the University.

Right . So he didn't ask you any relevant questions about your training or experience?---No.

Do you know whether he checked any of your referees?---I'm pretty confident he called Nathan Gapp, he was my manager at Apple at the time 'cause he mentioned it.

20 Yes?---But he was the only one who mentioned it.

Right. And you went along for an interview with the Sydney University where you met Andy Apin and George Tsipidis?---Yeah, correct.

Were they the only two - - -?---Present at the interview, yep.

Right. And were there any other applicants there to your observation ---There was someone waiting for an interview I assume afterwards.

30 Right, okay. Now you say that it was about three months before you signed any contract employment or taxation forms with Succuro?---It was very close to that, yeah.

Have you been paid in that time, that three month period?---Not in a timely or accurate fashion to what they described but, yeah, there have been payments to me.

40 So how did you know what you were going to get paid?---We had a, a letter of offer that was emailed to me by a Bill Mylonas on the behalf of Andy Apin, George Tsipidis, that was all I had though.

How did you know what you going to get paid by Succuro?---Because it had in that letter or that email you'll be paid the hourly rate of so and so.

Right. Now you say you don't ever recall being instructed in the University's code of conduct or other policies, right, in paragraph 5? ---Yeah, correct.

Did you actually have access to the University's intranet?---No, not when I started there. I did have a Uni key initially, I spent the first couple of hours with Andy on site, he gave me a brief rundown of the University the resource manager George at the time said hey, do want to pop over to the Con we could use John (not transcribable) here so I got my public transport over to the Conservatorium and I was there for about a week and a half.

So you just literally started work?---Exactly.

10 Did you ever hear of the code of conduct?---Not that it was mentioned to me, no.

So far as you're concerned you never saw a copy of it?---The code of conduct didn't see or hear that but everything was just on the job training, so I taught myself how to use the job logging system, all that type of gear, people who'd worked for the Uni ICT prior to me who were working full-time at the Conservatorium employed by the Con had a bit of experience so they pointed me in the right direction but it was pretty much the case being left to your own devices to get by.

20

It was very much a hands on job?---Yeah, correct.

Now you say in paragraph 6, "The only other person I know of who works for Succuro Recruitment is Virginia Kantarzis who's Demiralay's wife? ---Correct.

Do you see that?---Yeah.

How did you come to find that information?---Alex who I worked with at the University he was the person who organised these interviews.

30

Do you know Alex's last name?---Off the top of my head, I know he's Serbian, I can't remember his last name. Jankovic I think it might be.

He told you that?---Correct.

He told you that Virginia Kantarzis worked for Succuro?---Correct.

He told you that Virginia Kantarzis was Todd Demiralay's wife?---Correct.

40 Now (not transcribable) Todd Demiralay?---Not initially but, yeah, down the track, a couple of weeks in (not transcribable) I did.

All right. Now how did you find out that Kantarzis worked at Transfield prior to her employment with Succuro?---'Cause Alex worked at Transfield.

Right. And did you find out that any other people had worked for Transfield at the University?---So a bloke who finished up just before I started there was Alex, manager at Transfield Angelo, no idea what his last

name is, he was at Transfield then went to the University then Peter was the only other person I knew, Peter Smeros.

To your knowledge were they at any time contracted through Succuro?---
Yeah, Peter started with a bloke called Bruce probably about three to four months after me by Succuro.

Was that both Peter and Bruce were contractors with Succuro?---Correct.

10 Now you say that if there was any problem you'd liaise with George Tsipidis?---As far as the resources point of view, yes.

Was he a man of computer training or more general management?---My, he'd, my understanding was he'd worked in the IT industry but he was always from a resource management background.

Now in paragraph 8 you talk about a conversation you had with Andy Apin.---Ah hmm.

20 All right. And do you recall when this conversation was?---The exact date I don't know but I know the conversation 'cause I got a call from another person I'd worked with before who was now managing a department at the University of New South Wales, I met up, had an interview with them and went back to the next day and told Andy I was going to be handing in my notice 'cause they were going to be paying me extra, I was going to get \$, an hour from them, Andy goes what are you talking about extra you're on ,an hour but I was on the , so.

30 So you were on \$, an hour?---I'm pretty sure it was , to start with and then it went to like ,. About six months into it George - oh, not George sorry, Bill Mylonas did something with the super where he paid, he was saying he was doing an extra, extra contribution to bump it up to that much.

Right. Just in relation to your evidence before the Commission just a moment ago - - -?---Ah hmm.

- - - in paragraph 8 and I just want to clarify, you say you were going to apply for another IT position as it paid \$35 an hour. I think you told the
40 Commission just a moment ago it was \$, an hour?---No, there's several, this was a job outside of, out, the one I just referenced there \$40 an hour was UNSW.

Right?---The one here that's \$35 an hour was for the Sydney College of the Arts prior to when I worked there as a full-time employee, they were seeking someone as a contract position. I think it was three and a half days a week which was \$35 an hour.

Right. Okay. Now, you indicated that - - -in paragraph 9 you had problems with getting payslips or superannuation contributions and so forth?
---Correct.

All right. And you got the statement - you make the statement, "I'm aware that other contractors to Succuro Recruitment had similar taxation and superannuation problems"?---Correct.

10 Is it the fact that without a payslip you couldn't lodge your tax return?---No, the issue with the tax return was about three and a half weeks into it, it might have been four weeks into it, Bill finally came to the University, a tax declaration, filled it all in, ticked that I had a HECS debt so if I earn over \$35,000 money has to go the HECS but he obviously didn't use that form I gave him or he did an error with it and because I didn't get a payslip I wasn't able to verify that he wasn't paying the HECS debt so as a result of that there was a HECS debt outstanding for that financial year.

Right. So you ended up with a problem with your HECS debt?---Yeah.

20 Would that then place the events that you next describe in paragraph 9 as at about June 2009?---Yeah, correct.

Right?---I believe so.

30 Okay. Now, because of the taxation debt you looked up Succuro Recruitment's ABN online. How did you do that?---So you just go to, I think its biz.gov.au or nsw.gov.au, you can search an ABN. There there's a plethora of sites out there if you, you give your credit card, it's like a \$44 fee, it will give you a rundown of the formation of a company or a trust or something along those lines, anything that's publicly recognisable information by ASIC and from finding out that, that's when I found the information about Succuro how, how it was owned and so forth.

Yeah. So you paid a \$44 fee to get that information?---It was thereabouts, yeah.

40 And after that did you tell anybody that Todd and his wife had an interest in Succuro Recruitment?---Well, the name, I recognised Virginia's name there but I didn't recognise Todd's name because it came as Atilla so I went the next day and asked Andy if he knew Atilla and Andy said, Andy Apin sorry, Andy said yeah, that's Todd.

Right. And what did you say to Andy Apin?---Nothing.

All right. Is that because you decided that there was, as you say, the final sentence in paragraph 9 that there was no point in complaining about Succuro because your, your ultimate manager was involved in the recruitment company that was being engaged?---Correct.

Now, you say in paragraph 10 that other contractors weren't happy with the conditions of work at Succuro and they wanted directly to subcontract to the University?---Ah hmm.

And you say they were told from George Tshipidis they could not do this as Demiralay had told them that the University had an arrangement with Succuro Recruitment?---Correct.

10 Now do you recall who you spoke to, what was said that gave you that information?---Bruce, the person who was appointed at the same time through Succuro with Peter Smeros. He was pretty much fed up to the point where he couldn't get a payslip or get paid on time that he engaged another consulting mob, I think it was Hays or something along those lines and said hey, if I come to you with work can you engage with the University and can I contract through you. He tried to facilitate a meeting with the staff there and bring the person over and that's when we were told that you're appointed through Succuro and that's how it stands.

20 But were you ever told by George Tshipidis?---Well I was there when it was said, yeah.

So you were there as George Tshipidis was speaking to Bruce?---Well I was directly standing next to Bruce so I assumed that I was involved in the conversation.

And what were the words that George Tshipidis actually said in that conversation?---I can't give you verbatim but it was along the lines of what I've got in the statement, that you're appointed by Succuro and that's how it stands.

30

Right. And what about this conversation between Bill Mylonas and Shia Cohen?---Yep.

Do you recall roughly when that was?---Yeah, that was probably a month or so or a couple of months after I left the University, Shia wanted to grab a computer off me, one of my personal computers so I met up with him when he was on his lunch break just at the Nando's opposite the medicine building at USYD and gave him the computer and when I was actually there Bill gave him a call 'cause Shia was seeking written confirmation that his contract was going to be renewed.

40

Yes?---And that's when Bill said to him, look as much as I'd like to go into bat for you, I get a sign on bonus if I bring someone else in. So that's my preferred option.

And is that a sign on bonus from the University?---I don't know where that's from. That's just from the conversation. I'd be making assumptions if I went anything more than that.

I have nothing further.

ASSISTANT COMMISSIONER: Thank you, Mr Morris.

MR MORRIS: Thank you, Commissioner.

10

ASSISTANT COMMISSIONER: Is there any application to cross-examine Mr Anderson?---I'm sorry - - -

I'm sorry, I'm just asking does anyone else want to cross-examine. I think Mr McIlwaine does.

20

MR McILWAINE: Commissioner, I have an application which may remove the need to cross-examine. My application is that substantial parts of his evidence and his statements if it's intended to be tendered not be published. The basis of that is that this witness makes a number of allegations about my client, Mr Mylonas about their business relationship and whilst I can understand how it's relevant because the dispute caused this witness to make a check of the corporate records of the company and I accept the relevance of that. The balance of the material, firstly my respectful submission it is not, not relevant to the terms of reference of this Commission. Secondly, large parts of it are based on hearsay, sometimes hearsay upon hearsay. And if we are going to, in fairness to my client if that material is to be published my client has to have the opportunity to challenge this witness for their evidence about that. Take for example the allegation about a rate of [REDACTED], being charged, now that, my instructions is it's simply not the case. Certainly evidence we've seen to date from all the documents is contrary to that. In my respectful submission to allow that material which is prejudicial and damaging to my client, unfair to him and would lead to a significant diversion of the Commissioner's valuable time, in doing so for example argue that whether there was a HECS – whose fault it was that there was HECS debt. I have certain instructions about that and that would take up a considerable amount of the Commissioner's time and in my submission, it's only relevant in that it caused this witness to do certain things which gave him certain information. So certainly the statement I'd be asking not be published. I'm quite happy for legal practitioners to see it. It doesn't – well they have already, it doesn't affect many other witnesses. And the evidence particularly about the allegation that [REDACTED], was charged, the allegation, the hearsay conversation with Shia. I can go through and identify other examples.

30

40

ASSISTANT COMMISSIONER: I think the trouble Mr McIlwaine is as I see it the evidence about the way Succuro was being run, supposedly badly or contractors weren't happy is relevant in this context, that there was

nobody they could go to complain to because as this witness has said in this statement, Mr Demiralay had some involvement in the company to his knowledge and therefore there was no one they could go to, it's relevant to the alleged conflict of interest in the way the relationship between the University and Succuro was being run.

10 MR McILWAINE: Commissioner, it might be relevant that people had concerns about the way they were being dealt with and they had – but it is not necessary in my submission to this Commission to determine the fact whether those concerns were properly based or not. And on my instructions, my client will concede when he gives evidence there were some difficulties with, with payments from time to time. (not transcribable) we don't challenge that. I think Ms Normoyle there was some evidence about her. But the evidence of this witness which goes a bit beyond just late payment from time to time is strongly challenged and take up a great deal of – my client is entitled if it's going to be published to challenge it, to examine this witness at length to lead evidence contrary to that and in fact it's – on the evidence that I've seen, for example the [REDACTED], allegation, that is simply totally contrary to all the evidence - - -

20

ASSISTANT COMMISSIONER: Well I mean I think all this witness is saying is that's what somebody told him - - -

MR McILWAINE: That's, that's the whole problem.

ASSISTANT COMMISSIONER: - - - that you're getting less than – and I mean whether that's true or not is something that's going to have to be resolved at the end of the day. But I think this witness - - -

30 MR McILWAINE: My client will find it very hard to deal with this hearsay allegation. Is the person Shia going to be called? Are you we going to get (not transcribable) because that in fairness to my client, they would have to be called to say whether they had this conversation with Mr Mylonas or not.

ASSISTANT COMMISSIONER: Yes, well what do you say Mr Morris?

40 MR MORRIS: I can understand my friend's concerns. Mr Apin will be called to give evidence and he'll either give that evidence or he won't. In relation to the manner in which the taxation and superannuation issues are dealt with, that is merely background information which precipitated this witness to make a search which he was able to do inexpensively and online which indicated the relationship between his ultimate supervisor and the company who was employing him. So it's really a context, it's material relating only to context and I don't, it really is the precipitating cause. As for the witness Shia Cohen, we do not have a statement, we do not intend to call evidence from Shia Cohen, but given that Mr Anderson was present when the conversation took place, whether it's right or not that was his state of mind. And you know he was present as this conversation – immediately

after the conversation took place. Now what weight you put on that is a matter for the Commission. I don't, I will not be putting it forward as being of great weight and quite what a sign on bonus means is, is an open question but it does tie in with the placement fee which as I understand it is not in dispute. But perhaps Mr McIlwaine could take those observations on board in formulating his objection.

10 ASSISTANT COMMISSIONER: Yes. I mean Mr McIlwaine, as you'd appreciate we are not going to make findings about whether for example the HECS debt was not paid as you've said. That was – that's evidence as to why this witness did certain searches.

MR McILWAINE: I understand that. I conceded that at the start.

ASSISTANT COMMISSIONER: And I mean I think any concerns that your client has about that can be dealt with by cross-examination of this witness or by his giving evidence which he will in due course as to what he says happened.

20 MR McILWAINE: Commissioner, my client will certainly give evidence that there was a dispute about a HECS bill.

ASSISTANT COMMISSIONER: Well that's really all we need to know for our purposes.

MR McILWAINE: Exactly Commissioner.

30 ASSISTANT COMMISSIONER: We're not going to go further and say, and therefore your client wrongly you know, didn't withhold money for the HECS bill, because it's irrelevant.

MR McILWAINE: Exactly Commissioner. This witness' evidence is now out there in the public and it can be dealt with in my respectful submission by applying a non-publication order to those parts that are prejudicial and are based on hearsay.

ASSISTANT COMMISSIONER: Well I mean - - -

40 MR McILWAINE: Because when my client gives evidence about it, it just gives the matter more publicity, it's, it's damaging to his business.

ASSISTANT COMMISSIONER: The last part is not hearsay, the Cohen party was there for the conversation.

MR McILWAINE: Well, it's alleged here's there, Commissioner, I hadn't had a chance to have instructions - - -

ASSISTANT COMMISSIONER: I appreciate that but you will be able to and then - I mean it's not - all I'm saying is it's not hearsay he was there, he
- - -

10 MR McILWAINE: But for example, one can raise the question of relevance, there is, that conversation seems to be suggesting that my client received a sign on fee when hourly rate contractors were employed by the University of Sydney. That's certainly my understanding of any of the evidence. It's only in regard to the recruitment of permanent, when either
10 temporary employees became permanent or in the case of Mr Hunt the recruitment of a full-time - the problem is, Commissioner, it's contrary to all the evidence that's before the Commission. Prejudicial to my client and his business.

ASSISTANT COMMISSIONER: Well, look I don't know that it is, it's as prejudicial as you seem to think it is. In particular, in respect of the first matter you're saying your client will concede there were some problems, people had some complaints about the way certain things were handled which is - - -
20

MR McILWAINE: We do concede from time to time payments were late.

ASSISTANT COMMISSIONER: Which is all this witness is saying. He was present for the other conversation. Now whether at the end of the day that's acceptable be a matter for how the other evidence pans out and what your client has to say about it. I don't think there's anything in this statement that is so prejudicial to your client that it justifies the evidence being suppressed. I think people realise this witness's evidence - it's - it may be challenged by others. At this stage this is just what he's saying.
30

MR McILWAINE: There's a statement that my client paid this witness [REDACTED], an hour and received [REDACTED] an hour from the University. That is highly prejudicial and he's [REDACTED] that - there's other evidence the rate was something of [REDACTED] an hour. That's I think Mr Pigot's statement and certainly (not transcribable)

ASSISTANT COMMISSIONER: Well, I'm not sure what - do we have specific evidence about the rate that was being charged for this witness's services?
40

MR McILWAINE: There are invoices. I'll make a check about - there are invoices for him and they'll speak for themselves.

ASSISTANT COMMISSIONER: I beg your pardon?

MR McILWAINE: There are invoices for this witness's services to the University.

ASSISTANT COMMISSIONER: Well, that's right they will.

MR McILWAINE: They will speak for themselves.

ASSISTANT COMMISSIONER: I'm willing to make a non publication order in respect of paragraph 8 which is the evidence about the fee because I do think we should take the best evidence that we have about that which will be the invoices themselves. So in respect of the others I don't think they're prejudicial, certainly not prejudicial enough to warrant a non publication of it. So I'll make it a non publication order in respect of paragraph 8 of this witness's statement and also with respect of any evidence he's given here today about the rates of payment but otherwise a statement will be tendered I think.

MR McILWAINE: If it please, Commissioner.

MR MORRIS: Just one issue on the non publication order, it seems that my friend's concern is the University being charged [REDACTED], an hour for the services. On one view the evidence that this witness was being paid about \$30 an hour by Succuro is not a matter which ought to form part of a non publication order. That's his evidence that that's what he was being paid.

MR McILWAINE: I've no problem with what he's being paid, Commissioner.

ASSISTANT COMMISSIONER: All right. Well, look I'll make a suppression order in respect of the evidence about what he was told Succuro were charging the University for his services otherwise the statement will be in as an exhibit.

MR McILWAINE: Thanks, Commissioner. Commissioner, I don't think our witness (not transcribable) cross-examination but I'll need to take some instructions. This paper was only served as the witness went into the witness-box.

ASSISTANT COMMISSIONER: Well, your client is here I take it?

MR McILWAINE: He is here. I can take instructions but I need a short time to do that, Commissioner, hopefully for the witness (not transcribable) to stand down and our witness may not (not transcribable)

ASSISTANT COMMISSIONER: I think that's fair enough.

MS McGLINCHEY: Commissioner, I'm in the same position, I would like to ask some quick questions (not transcribable) statement and it does mention my client and (not transcribable) about my client. I need to (not transcribable) instructions.

ASSISTANT COMMISSIONER: All right. Well, we'll go on with another witness. At this stage, Mr Anderson, he'll be stood down but you won't be able to - - -

MR GOLLAN: Commissioner, I'm not in the position but I would like to ask a couple of questions and if I might be afforded that leave to do so.

ASSISTANT COMMISSIONER: Certainly.

10 MR GOLLAN: Just for your purposes, I don't know what you know, Mr Pigot, but I appear for Mr Pigot in these proceedings.---Ah hmm.

Can I just ask you a couple of questions about how you came to associate yourself with the University and reading paragraph 4 is it the situation that you responded to an online job advertisement?---Correct.

It's been a little while since I've applied for a job, is it the situation that you sent through your resume and things online as well?---Correct.

20 Did that advertisement advertise to you or did you form the opinion having read that advertisement that it was Sydney University that was seeking your services?---The only thing that appeared to me was it had Mac written in the title and I purely applied based on that.

Who did you understand that you were putting your services out to?---It said something like I - this is purely from memory, something along the lines of a large organisation but in terms of the (not transcribable) the description of where the job was based at or anything like that, it didn't have anything specific in it.

30 You received a phone call on Monday morning. Is that right?---99 per cent sure it was a Monday morning.

Whenever it was at some stage thereafter you received a call and a timeframe - - -?Ah hmm.

- - - and it was - forgetting who it is but it was someone at the other end of the phone?---Correct.

40 Did that person represent themselves as being someone from Sydney University?---No, no, someone on behalf of Sydney University.

Someone on behalf of Sydney University?---Yeah. Straight away they declared the job was for Sydney University 'cause they wanted to know if I was interested in working in that environment.

Sure. Now did you understand or did you form the opinion at that time that it was Sydney University that was going to employ you?---No.

What opinion if any did you form at that stage about who was going to employ you?---At the end of the day I applied for the job by Succuro so I always knew that I was being employed by Succuro. I've worked as a contractor before and I know that regardless of where you're working at physically or what you're doing the work for at the end of the day you're engaged and you work for the recruitment company.

10 Sure. But when you say at the end of the day or later on you came to understand - I just want to focus if you can on that phone conversation?---
Yeah, correct.

The phone conversation, as I understand your evidence is someone on the other end of the phone telling you that the job was going to be at Sydney University?---Correct.

And that you would be performing services consistent with the wishes and needs of Sydney University?---Correct.

20 And that they would be computer services?---Correct.

And that in that context your resume looked like it fit the bill?---Correct.

Did they ask you then to come for an interview?---He said that it would be favourable if we met up just so he could get a feel for me before I do it but then he called me up shortly after and said just - I've already organised an interview with the clients directly.

30 This is what I want to ask you about - - -?---Yeah.

- - - did they say that they were organising a interview with their client or did they say that they were organising an interview and that you are to attend to the University?---They said the interview was for a job at Sydney University and I was meeting with the team leaders of the team at Sydney University and he explicitly stated not to let on that I'd met with them prior to meeting with them.

40 At this stage were you aware of the company Succuro?---Only in the form of the job ad I'd applied for.

Well, when you say in the form of the job ad you'd applied for, was Succuro mentioned in the job ad?---Yes.

When you responded to that job ad did you think that you were sending your information to Succuro?---Correct.

As you say it's quite common in your part of the industry - - -?---Ah hmm.

- - - to have agents or placement agents?---Ah hmm.

When you went to the University you met up with some people for an interview?---Correct.

Did they represent to you that they were members of the University or that they were members of Succuro?---Members of the University.

And did you understand at any stage that any of those persons were representatives of Succuro?---No, I was never under that impression.

10 Right. Thank you.

ASSISTANT COMMISSIONER: Yes, thank you, Mr Gollan.

MR GIBSON: Commissioner, I just rise to say that I will seek leave to cross examine this witness but I'm in a similar position to my friends and (not transcribable) take some instructions but it would be beneficial to take some proper instructions before I cross examine him.

20 ASSISTANT COMMISSIONER: All right. Well, I think we'll stand this witness down and he'll be recalled after the morning tea adjournment at which time anybody who wishes to cross examine him further can.

I'm sorry, Mr Anderson, you can't be excused at this time?---Ah hmm.

You'll be stood down and recalled about 11.45 this morning?---Okay.

Thank you. If you'll remain?---Do you want this left here?

30 Yes, thank you.

THE WITNESS STOOD DOWN

[10.40am]

ASSISTANT COMMISSIONER: Yes, Mr Morris.

40 MR MORRIS: Thank you, Commissioner. The next witness is Mark Edmond Pigot who has prepared a statement, 28 February, 2012. I tender that statement together with the annexures and understand he's available to give evidence.

ASSISTANT COMMISSIONER: Yes. The statement of Mr Pigot will be Exhibit 18.

**#EXHIBIT 18 - STATEMENT OF MR PIGOT DATED 28
FEBRUARY 2012**

ASSISTANT COMMISSIONER: Thank you, Commissioner.

MR GOLLAN: Commissioner, I only rise with a matter of formality, obviously I (not transcribable) represent Mr Pigot - - -

ASSISTANT COMMISSIONER: Yes.

10 MR GOLLAN: - - - and I would seek a declaration for Mr Pigot in terms of section 38. I have explained to him the content of that and what it means, just, you know, in relation to (not transcribable) but I formally make that application on his behalf.

ASSISTANT COMMISSIONER: Yes, thank you.

Yes, well, Mr Pigot, your counsel has indicated you wish to seek a section 38 declaration and that you aware of what that means.

MR PIGOT: Correct.

20 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.

30 **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.**

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

MR PIGOT: The oath.

ASSISTANT COMMISSIONER: Thank you.

MR MORRIS: Thank you, Mr Pigot. Do you have a copy of your statement dated 28 February, 2012 in front of you?---Yes, I do.

Now, through your counsel you've indicated that you wish to make some minor changes to certain parts of your statement?---Yes, I would please.

10 Okay. As I, as I understand it through your counsel you wish to make some changes to paragraph 65?---Correct.

What change would you wish to make?---The final three, three, three words in paragraph "all previous co-workers" I would like to actually remove.

Right. And paragraph 66?---For paragraph 66, in the sentence, I would like to replace "one person" with I think "two people".

20 Right?---In there, the second sentence, instead of "this person being Tim Passe-de-Silva" I'd like to say "these", these I think, "people being, being I think Tim Passe-de-Silva and Adrian Buxton".

All right. And I think you want to make a change to paragraph 83?
---Correct.

30 Would you kindly articulate what change you'd wish to make?---Certainly. I would like to add at the end of that paragraph "when he was recruited but believe at some later time I, I became aware". Sorry, the full sentence ought to read "I was not aware that Mr Buxton and I think Mr Demiralay worked together at Ozemail Internet when he was recruited. However, believe at some later time I became aware."

All right. All right. And I think the final change is to paragraph 100?
---Correct. Now I guess the final, the final, the final sentence, paragraph 100, I would like to remove that word "not" and say I actually do recall and I'd like to add after "issue" a comma, comma, then after the, the first round, sorry, and had assumed that further, further progress was with the assistance of Sydney Recruitment.

40 Okay. Can I just go back there. The word "not" appears there in two positions. Which part of paragraph 100 do you wish to amend?---Sorry, the
- - -

The last sentence?---Correct.

All right. So you want to delete the word "not"?---Yes.

So you're happy for it to read "I do recall having a conversation with Mr Demiralay regarding this issue"?---Correct.

And what do you wish to add to that?---I'd like to add, I'd like to add, "After the first round and had assumed that further progress was with the assistance of Sydney Recruitment".

All right. Thank you. Okay. Now otherwise you've read this statement carefully have you?---Correct.

10

And there's no other change that you wish to make to it?---Correct.

You're essentially happy with the story it tells so to speak?---To the best of my, the best of my knowledge and also memory.

Okay. Now, the - one allegation I wish to raise with you is this: at some stage during your - sorry, I'll withdraw that, I'll go back. When you arrived at the University Mr Demiralay was already in place as Field Services Manager?---Correct.

20

And you were appointed as his direct supervisor?---After a number of months.

After a number of months?---Yeah.

And prior to taking over as his supervisor did you acquaint yourself with the procurement policies, the state recruitment policies, Code of Conduct and other documents?---Certainly, certainly in overall general, general terms yes.

30

Right?---Specifically in terms of the procurement policy oh, see, I recall it depending more on some individual conversations with our procurement staff than a word for word literal reading of the policy.

I see. So you had procurement staff to whom you could seek, from whom you could seek advice from time to time?---Correct.

And where were they in relation to your office?---One floor below me.

40

Right. So they're readily available?---Yeah, certainly.

You knew the individuals concerned?---Yes.

And you knew that they specialised in that area?---Correct, yes.

All right. Now did you have largely an information technology background or did you have a management background?---My actual background is essentially management information technology.

Right?---So I guess my, my entire career of 29 years has actually been in information technology but I have been performing management inside that industry since 1990.

I see. And did you have in your prior roles responsibilities for recruiting people, identifying needs within organisations and finding people to fulfil those needs?---Yes.

10 And did you have the capacity to or did you have training and experience in the budgetary aspects of those?---Yes.

Now, did you get given a contract budget for the work at the University or was it an annual budget?---It was an annual budget with an actual contract component. Certainly, certainly, certainly the emphasis was at the aggregate annual level.

20 Right. And did you get any information about - from the University as to either (a) your compliance with your budgetary limits or (b) the amount of money that was being paid to any individual contractor - recruitment company?---Okay. So in terms of (a) yes. So in February 2008 when I actually joined there actually was an IT finance, finance director who was essentially employed by, by the finance area, placed inside ICT who was obviously a wealth of information to me as a new employee. In terms of the second half of your question, no, I actually wasn't given such information.

So on an annual basis were you able to determine what the sum total of any - the sum total of the amounts paid to any individual recruitment agency?
---No.

30 And is it the case that because you weren't given that information you were not able to determine whether any procurement figures for tendering processes have been set off?---Correct, yes.

You knew enough about procurement to know that if particular payments to an individual contractor exceeded a certain amount you'd be required to go to tender?---Correct, yes.

40 Looking back on it now do you see that that is a, do you see that as a shortcoming and if so can you explain why?---All right. May I actually perhaps explain from my perspective how, how the contractor engagement process works?

Please?---At an actual high level. Effectively this is a series of individual engagements whereby I guess the actual University engages a particular contractor through an agency, through an actual competitive procurement process. I'm actually not aware of an overarching agreement or an actual heads of agreement with any, with any recruitment agency, more it's an

actual series of individual engagements based on a particular person for a particular length of time. So in terms of tender thresholds from my perspective that actually would apply in terms of the individual contractor engagement, not in terms of the aggregate agency spend.

All right. Now with hindsight do you think that that's a satisfactory position to have put you in?---No, I think there are opportunities for improvement in that area, yes.

10 And what, what opportunities do you say?---For a number of contractors coming from a particular agency, it may be worthwhile establishing an actual trigger threshold and an analysis which actually would occur inside our procurement finance area. Such, such, that if those actual thresholds were exceeded in a particular year that it invites greater scrutiny.

Right. Now in relation to that particular issue, you I think distributed a panel by email, and I'm referring to page 50 of your statement and you'll see, sir, that in the – these statements are paginated at the bottom and you'll see that this is an annexure to your statement?---Right. I don't have the - - -
20

You don't have the annexures?--- I have the annexures without the actual corresponding page, page numbers. Right . Yes.

Right. Have you got that annexure there?---Yes, I certainly do.

And it says contract recruitment - - -?---Ah hmm.

- - - from Mark Pigot to a whole series of people?---Yep.

30 Now who were those people to whom you sent that - - -?---That, well I guess my actual I think management level, my manager level direct reports.

Right. So these were the people who you supervised - - -?---Correct, yes.

- - - to – you directly supervised them, so all these people had a direct interest in this information you were conveying?---Correct. Correct, yes.

Well you've seen this email before haven't you?---Yes, correct.

40 Right. And there's no doubt that you generated it?---Yeah. Sir, is it okay if I explain the background to this email?

Please do?---So I think my experience before I guess at the University of Sydney, immediately before was actually work for AMP. And at AMP there actually were formal, there were formal contract recruitment panels in place and I even participated in their establishment. So I actually, so I actually came in to the University February of 2008 and asked both HR and also procurement if such a similar arrangement existed and actually was

informed it actually wasn't in place and essentially contract procurement was an actual three, was an actual three quotes approach. So I observed across my, my managers something of an ad hoc approach, lots of different agencies being introduced under individual circumstances.

Now when you talk about individual circumstances are you saying that individual, individual managers who reported to you had their own system? ---Had their own preferred set of agencies to actually talk to within the overall system embodied in the actual procurement policy.

10

All right. And did you make any – sorry, let's just go back to AMP? ---Yeah.

You were involved in putting together a preferred panel?---Yep.

What due diligence did you perform at AMP in relation to identifying who should go on the panel and who shouldn't?---Sure, at AMP it actually was an extremely formal RFP/RFI process.

20 Could you just - - -?---Sorry, so they can be an extremely formal request for information followed by request for proposed process. My involvement was actually primarily in terms of assessing fit for purpose from an IT point of view. There actually were other people involved in that actual I think panel establishment who actually reviewed it in terms of, in terms of probity, commercial capability, financial background et cetera.

And when we talk about financial background and probity and so forth what sort of checks would take place at AMP?---I'm not sure.

30 MR GOLLAN: I object, he's answered the question.

MR MORRIS: He's answered the question. Okay?---Okay.

Now in so far as putting your list together - - -?---Yes.

40 - - - that was distributed on 27 November, 2009 what was the process that was gone through in putting together this list?---Okay. At a regular meeting of my managers, so I made the observation that it seemed actually quite ad hoc here and I guess there were opportunities for improving our efficiency through actually, through actually having an actual consensual list that all of us agreed to use for our contractor appointments. So essentially I led an interactive collaborative discussion that said who we were using, what are they like, what are your experiences with each of these agencies and from that my managers and I arrived at this five agency list.

Okay. So it was a matter of impression based on past performance? ---Correct.

And apart from that there really wasn't any inquiry beyond that as to who you were dealing with?---Certainly not from me, no.

Is that – is the reason for that because you expected your managers to tell you or just simply that because they were performing and everybody was comfortable with the arrangements, let's keep going?---Certainly more the latter. Effectively this (not transcribable) was an informal aggregation of their existing practice to actually bring some sort of efficiency around it. No other purpose.

10

Okay. And did you recall in this meeting making any inquiry from any of your managers as to whether any of them had any personal or financial relationship with anybody whom you nominated on the list?---No.

All right. And certainly despite the fact that you – well do you have any recollection whether in the absence of any specific request anybody volunteered any information about prior personal or financial interest in anybody on the list?---No. No.

20

So the fact is – and I'm not being critical, you just didn't know?---Correct.

Now is this method of identifying preferred recruitment contractors still in place at the University do you know?---Yes, it is. In more recent times we've actually supplemented this using New South Wales government C100 procurement panel.

All right. I think you refer that, refer to that in your affidavit or your statement somewhere?---Correct, yes, yes.

30

What additional benefit do you think the application of that policy may bring?---Primarily financial, certainly, certainly I think it's the New South Wales Government purchasing power does actually promise potentially less expensive rates.

Now, did you know any of the contractors individually in the IC - who were being employed in desktop team leader positions?---Obviously before I actually started no.

40

No, of course?---Right and, and after I started at actually I guess various particular meetings, the interactions or, or staff meetings yes, I came to know particular individuals, yes.

Did you come to know a gentleman by the name of Mr Mawter?---I know the name Thomas Mawter, I believe I might have met him once.

And what about Mr Anderson?---Mr Anderson I actually do not recall meeting. Again, I can remember his name.

And what about Mr Ben Hollist?---No.

Now, did Mr Demiralay ever come to you to ask whether certain contractors ought to be appointed to permanent positions?---Sir, our University process of appointing contractors into actual permanent roles is actually through a formal advertising of that role and, and the contractor chooses to apply if, I think, if I think he or she, he or she so decides. So I can remember having conversations with him along those actual lines.

10 All right. Did you - was it you who made the decision to make a position permanent or was that something you, that Mr Demiralay would decide?
---Making a position permanent was actually primarily subject to an actual budgetary consideration, okay, and nowadays for the past at least 18 months there's actually been quite an actual complicated process in terms of requests to I think (not transcribable) so several of us have a role in approval of establishing a permanent position.

Okay. But as at the period 2008, 2009, 2010 who was - - -?---Ah hmm.

20 - - - who was making the decision about whether a permanent appointment would become available?---Depending on level it would be my manager, me, sometimes - sorry, it would be I guess my actual direct report, my actual subordinate, me, sometimes my manager as well.

Now, if it was going to be your manager would your manager need to come to you for approval?---I believe so. To me our actual policies and procedures around this have changed as we have heard in other evidence. I believe that always came to me but it may not of, depending on level.

30 Right. Now in relation to the process of making a permanent position available you're aware that there - or are you aware that there was a system of internal recruitment and external recruitment for a permanent position?
---Yes.

And is it the case that the, that an internal recruitment was not available to an existing contractor?---That was my understanding. Okay. Certainly on I think further reflection that actually may not have necessarily been an actual consistent understanding in previous years but it is actually my understanding, yes.

40 Right. Is it the case that at some point the policy changed?---It may have, I can't recall the exact specifics.

Okay. Now, did you in terms of desktop support services - would you sit on any Staff Selection Committees?---Sorry, only for I guess the actual manager role which we, which was actually Mr Demiralay's role.

Right?---Okay. Nothing underneath that, no.

Right. So that would be - who, who would sit on that staff selection?
---Typically, typically myself, probably an actual peer of mine, certainly an actual, certainly an actual Sydney Recruitment person.

I'm sorry, we might be at cross purposes?---Yeah.

In terms of appointing your managers - - -?---Yeah.

10 - - - you would sit on that staff selection together with somebody from Sydney Recruitment - - -?---Correct, yes.

- - - and so on?---Yes.

Insofar as staff recruitment for desktop team leaders or - - -?---Ah hmm.

- - - computer support officers or any sort of permanent appointment at that level, I take it you would not sit on any Staff Selection Committees?
---Correct.

20 Who would?---Okay. Certainly I guess Mr - certainly I guess the actual I think manager Field Services role which was held by Mr Demiralay. Okay. An actual Sydney Recruitment representative. Typically I'd expect to actually see an actual peer of Mr Demiralay's on that panel as well, though again I think the emphasis on that actually changed across the last three or four years and it wouldn't necessarily have been a problem to add extra people on that, for example existing subordinates, particularly, particularly if a specific technical expertise needed assessment at interview.

30 Right. And that, and that subordinate had the technical insight to be able to assess the applicant?---Well, I mean, it would be their primary reason for their inclusion.

All right. And then after short-listing and staff - an interview on the staff selection would you be obliged to sign off on the appointment?---Oh, yes, yes.

40 And who would see that appointment from - who would seek that consent from you?---Typically it would be actually presented to, to me in a form, that actually would normally come from the actual hiring manager to me.

I see. So you have short-listing, interview, recommendation for appointment, that would go to Sydney Recruitment and a form would come back to you from Sydney Recruitment for approval?---Sydney Recruitment would actually be a part of all those processes as I think you explained, for example, reference checking was always done by, by I think Sydney Recruitment themselves.

All right?---So effectively Sydney Recruitment work with the actual chair of the Selection Committee who is normally the actual I think hiring manager and from, from, from both of those parties I, I receive a recommendation.

Yes. And I think you would also - is it the case that you would sign a letter of offer to go to a particular applicant or - - -?---Typically, yes.

And one of the annexures to that letter of offer would typically be a Code of Conduct?---Yes.

10

All right. Now the - I don't want to (not transcribable) the material set out in your statement but did Mr Demiralay ever say to you that either he or his wife had a financial involvement with Succuro?---No.

Now I want to take you to paragraph 73 of your statement?---Ah hmm.

You see there "The only conversation I had with Mr Demiralay regarding his wife's involvement in Succuro was when the allegation came to light in 2010"?---Correct.

20

Was that in 2010 or was it 2011?---My understanding is it was late 2010. Sorry, I may not be exact on those dates because I was advised of the investigation by our actual University manager Investigations inside Audit and Risk Management.

Right?---And it was after that, that point.

Now, you say the words "Mr Demiralay stated that the allegations related to his wife's financial interests in Succuro"?---Ah hmm.

30

Right. Do you actually - can you assist the Commission in actually what the words were that were said?---No, I'm sorry, it was an extremely brief conversation and as I've said there, you know, this actually sounded as if it was a major issue and I had no interest in actually delving further. I was extremely, I was extremely happy to allow processes to take their course.

Had you ever heard the name Virginia Kantarzis prior to this date?---Simply in terms of I guess when she was married, married to Mr Demiralay.

40

All right. Now Mr Demiralay's contract was extended as Field Services manager I think in early 2010?---Mr Demiralay was a permanent employee.

Sorry.---Okay. From memory I believe his actual conditions of employment rate varied - varied with an actual salary increase but I actually don't have that particular paperwork.

Now did he go through a selection process like the one we've described when he was made a permanent employee?---All right. From memory that process wasn't required in this particular variation of employment.

So how did he end up getting appointed into a permanent position at that time?---So then he was appointed in a permanent position I believe back in 2006 before I even actually started in the organisation.

10 You set out a number of comments here in relation to the recruitment processes for a number of employees here at paragraphs 79 and following. ---Yeah.

Your observations there and your judgements about particular events are true and correct. Is that right?---Correct, yes.

20 In making the comments there are there for instance, paragraph 88 in relation to Mr Tshipidis, all right - the creation of this - this was actually the creation of a position for team leader resourcing. All right. Do you see that in paragraph 88?---Yes, yes.

That was more a position regarding not so much hands on IT services but more managing the section. Is that correct?---Yeah. So I actually haven't confirmed the exact position title. My actual perspective on Mr Tshipidis's role is that he'd certainly wasn't the actual team leader inside that desk top services and it had actually two primary roles. One of them was a resourcing coordination role, okay and it was appropriate given the size of the actual team. Secondly, it was an actual technical supervision role, since our actual second level support people also lived inside that team.

30 This role was quite a limited role?---You'd certainly had two explicit scopes associated with it.

Right. And just explain - is it really the fact that the expansion in ICT demanded that people who were hands on IT would not be caught up in trying to find the people necessary to make the place run?---It was more that of the actual size of the actual desk help services, Field Services team had actually grown - grown I guess to a point that it was more appropriate just to have a single team leader who was the, you know focal point for at least resourcing coordination.

40 When we talk about resourcing coordination we're talking about not only hard assets like computers and so forth but also we're talking about contractors and staff and so forth?---Correct, yes.

Now in relation to this you say that the creation of the position would have been discussed between Mr Demiralay and (not transcribable)?---Ah hmm.

Do you have any recollection as to whether Mr Demiralay approached you and if so what was said?---No, I don't have an actual specific recollection. I -I suspected it was an actual collaborative discussion as a part of our actual unusual fortnightly catch-ups.

10 Is that because so much time was being taken up in recruitment issues that it was diverting people from other activities within ICT?---And actually it wasn't only recruitment. In our shared services programme that actually was approached case by case, faculty by faculty, school by school and actually more often than not each of those individual engagements necessitated people transferring in from individual faculty areas into ICT into this actual desktop services area. So I guess this role in (not transcribable) involved with our shared services programme (not transcribable) in terms of appropriate planning, no.

It involved basically managing the transfer of staff from faculty into ICT?---Certainly assisting with that, yes.

20 In paragraph 90 you didn't sit on the Selection Committee - - -?---No. - - - for Mr Tshipidis?---Ah hmm.

You weren't aware of any background relationship between Mr Tshipidis and Mr Demiralay?---Correct.

And you certainly weren't aware of any background financial relationship between Mr Kantarzis, Mr Demiralay and Succuro?---Correct.

30 Is that something that causes you concern?---Absolutely.

What's the concern?---Well, I mean from I think my understanding of our external interest policy is a pretty clear conflict of interest simply that IT professional as a professional in - in the industry I find that against commonly accepted practice.

40 This part of the problem when you look at the totality of these - I mean this information was not given to you, you'd expect that information to be given to you in the ordinary course. Is that correct?---Absolutely. Would you expect that if you had that information you might have taken different steps in relation to the administration of contractors at ICT?---(not transcribable) as pertained to Succuro, certainly. As it pertained to Mr Tshipidis and also Mr - Mr Demiralay, certainly.

In terms of Mr Demiralay's management of these various team leadership positions - - -?---Ah hmm, yeah.

- - - he had a number of people that he supervised?---Yes.

Did that look to you to be a fairly tight knit team and operating successfully?---Yes.

Is it the case that the failure to disclose all these outside interests that you've become aware of has given rise to a position where the staff selection was being operated in a way which was good for Mr Demiralay and may not have been good for the University?---Clearly it was good for Mr Demiralay based on the information that I have been actually presented. In terms of whether it was actually good or not for (not transcribable) University for our operational accountabilities as a desktop services team I was extremely pleased with the actual quality of service and of the individuals inside the actual leadership team.

But of course you had little to judge it against as an alternative didn't you? ---I mean my actual management/executive role is obviously primarily (not transcribable) my actual leadership team but on occasion I would also (not transcribable) level down through an actual mix of formal and informal feedback, talking - talking with (not transcribable) University, talking (not transcribable) University customer base and in terms of these individuals not only am I actually not able to recall an actual negative piece of anecdotal feedback I am able to recall some actual quite positive feedback concerning this particular (not transcribable).

In other words the individuals who were selected actually, is it the case brought some value to your organisation?---Certainly.

You don't actually know what other alternatives were out there?---Correct, yes.

And is it possible that the smooth running of the team was, Mr Demiralay's team, was brought about by understandings between them all about how Mr Demiralay wanted the thing to work?

MR GOLLAN: I object to that.

MR MORRIS: I'll withdraw.

ASSISTANT COMMISSIONER: Yes, you've caused a lot of trouble, Mr Morris.

MR MORRIS: I want to give them something to think about.

ASSISTANT COMMISSIONER: Yes, exactly. So can I just ask you something while we're on this topic?---Mmm, certainly.

Your email at page 50 of the attachments to your statements- - -?---Yeah.

- - -you set out the five recruitment agencies that are on an informal panel?

---Correct.

And you say your basic idea is we won't go to another agency until at least a reasonable proportion, say three of these agencies, have been given an opportunity?---Yeah.

So was that, was it your intention that more than one agency would be approached to try to get the best candidate or - -?---Correct.

10 Yeah?---Yes.

So you did intend that, you know, it wouldn't just be going to one agency and saying give us a candidate- - -?---Yeah.

- - -there would be some comparison for competition purposes?---Yeah.

20 Was that your intention?---Correct, yes. Now, I may add, certainly our intention in ICT has now been actually clearly expressed across our actual leadership team that it's our expectation of actually three different agencies in terms of our procurement of contractors, we actually have been aware of some ambiguities as to if it's three different contractors from a single agency versus three different agencies and it's now been actually clarified, but only fairly recently.

So, and are you aware of whether after you sent this email three agencies always were being approached?---No, I, I have seen I think some exceptions to that.

30 Yes. Yes, thank you, Mr Morris.

MR MORRIS: Just finally, records are obliged to be kept of all recruitment selection processes?---Ah hmm.

And I think if I refer you to page 47, it's an annexure?---Yep.

Have you been asked to try and find documents relating to staff selection and so forth?---Personally no.

40 No. Are you aware whether these records, where these records are supposed to be kept?---My understanding is that for permanent recruitment they're actually held inside or Sydney Recruitment or inside our HR Service Centre which is another part of our HR area, and for our contract recruitment they're actually held inside Procurement which is, sorry, they're actually held inside our Procurement Services area which is a part of our overall Finance area.

Now, these five contractors that you refer to at page 50 of your statement - - -?---Ah hmm.

- - -are you aware whether any of those contractors appeared on the University contracts register?---Now, I know an actual contracts register exists, I certainly can't recall seeing it. Of those five I believe we have sourced contractors over the years from at least four of them probably five.

All right. Did you- - -?---So in those we have had people, people working from those agencies. I would imagine that would appear on our contracts register.

10

And prior to setting this list did you make any inquiry as to whether it appeared on the contracts register?---No.

Do you know what the process is for the University to place an organisation on a contracts register?---Now I may be now misunderstanding the actual purpose of the contracts register. If you're referring to it as some sort of preferred supply list, I'm actually not aware of that at all. If it's an actual historical record of which actual, which external entities we've engaged with, okay, some of those, some of those had absolutely been engaged with before my managers and I agreed on this (not transcribable)

20

I understand that. But the basic idea is that really there had been no inquiries made at the time that this list was produced as to what, what these companies were, who they were run by or what their commercial viability was?---Mmm.

MR GOLLAN: I object to that. I appreciate my learned friend (not transcribable) He's given some evidence about how this list was arrived at and so that may be (not transcribable) and indeed he's asked of the people that he's collaborated with about their experiences and whether or not they've been happy with the production of service and so that also may be an inquiry. It seems that the question that is put by my learned friend wraps all of those issues up and while some of the points that he makes wrapped up in that claim (not transcribable) be actually sustainable, when one considers the evidence at a later date it may be misunderstood.

30

MR MORRIS: I don't want there to be any misunderstanding. Apart from the inquiries with your managers- - -?---Ah hmm.

40

- - -that you spoke to to put this together, so far as you're aware, there was no other inquiry as to the financial or proprietorial background of any of these companies?---Correct.

Did you become aware of any, you've talked about some of the positive feedback you got in relation to Mr Demiralay's management, did you ever get any complaints or other issues being raised by other people about how the team operated?---Not that I recall.

Any complaints that you recall about staff selection issues or anything like that?---No.

Any complaints from contractors?---No.

Did you have any policy whereby you directed complaints to be referred to particular people if any staff had issues?---No.

10 And if you saw, was it always the case that you saw the staff selection reports where permanent staff were being appointed?---From a particular level, yes. I mean as I answered earlier, I actually can't exactly recall for an actual entry level permanent appointment if I would see documentation at that level.

Okay?---Certainly at the team, team, team, team leader level for example.

20 Okay. So if you saw a staff Selection Committee report that had only two or three committee members from ICT, would that have caused you a concern?---(NO AUDIBLE REPLY)

This is for a permanent placement?---So I mean three members of ICT who are on the actual Selection Committee or actually I think who are shortlisted?

No?---Sorry.

Only, the selection panel is made up of the following people- - -?---Yeah.

30 - - -only two or three ICT managers?---Typically, yes.

No, but- - -?---Oh, oh, sorry.

- - -if that's it, if that's all there was on the Selection Committee- - -?---Right.

40 - - -would that cause you concern?---Sure. Normally I would expect an actual Sydney Recruitment person, person on there as well and at some point across the actual previous probably two or three years our actual Sydney Recruitment function inside HR was actually considerable ramped up in terms of its actual profile and at that point it is actually my understanding Sydney Recruitment manage the, the actual permanent recruitment process, working, working with our actual hiring manager. So at a certain point, yes, I would absolutely expect that.

You'd expect that it would cause you concern if no Sydney Recruitment person was on the panel?---Correct.

What about the, we talk about the gender mix on the panel, I think you've suggested that it was a discretionary matter as to whether you had a gender mix on the panel but can I suggest to you that it was a mandatory directive? ---My understanding of our policy is that it was an actual desirable, okay, where achievable.

10 So whether you were concerned about, let me put it this way, if you were provided with a Selection Committee report that had obvious deficiencies on it, is it, is what you're telling the Commission that that would have raised a concern with you or it would not have?---Yes, it would have raised a concern.

And in this regard would your concern be alleviated depending on your knowledge of the people who are actually sitting on the Selection Committee panel?---Sir, I would actually contend that it actually should not be, but it have been as a hindsight think in some of these documents I have actually reviewed.

20 You of course would rely on your employees or your – those beneath you, those you supervise - - -?---Mmm.

- - - to be absolutely scrupulous in their application of the Code of Conduct?---Certainly.

Right. And in terms of the selection panels you would also expect diligent application of the University requirements?---Yes.

30 And if there was the requirement that somebody independent from the particular division ought to be on a selection panel?---Not apart from I guess the actual Sydney recruitment person.

I see. Righto. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Will there be an application to cross-examine?

MR McILWAINE: Yes, Commissioner.

40 MR MORRIS: Commissioner, there is one matter which has come to me through my cross-examination, I flicked it over. Paragraph 61 and 62 of his statement are not pressed. That is an issue which has evaporated so may that be deleted and the appropriate order, non-disclosure or non-publication order be made with respect of that material?

ASSISTANT COMMISSIONER: Paragraph 61 and 62?

MR MORRIS: Yes, yes.

ASSISTANT COMMISSIONER: Yes. In respect of paragraph 61 and 62 of Exhibit 18 I make a non-publication order.

IN RESPECT OF PARAGRAPH 61 AND 62 OF EXHIBIT 18 I MAKE A NON-PUBLICATION ORDER

10 ASSISTANT COMMISSIONER: Yes. Yes, in view of the fact that if people will seek to cross-examine you, you'll have to stay here until after the morning break. We'll resume in fifteen minutes. Thank you.

SHORT ADJOURNMENT

[11:32am]

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes - - -

20 MR MORRIS: Commissioner, I just want to clarify one thing, more by way of statement for the witness so that his evidence is understood a little more clearly. Mr Demiralay was initially employed on a three year contract and he was then placed in a continuing position in about January 2010. Is that your recollection?---Okay. Yeah, I accept that to the limits of my understanding about how a three contract converts by continuing.

Okay. And just one other thing, Commissioner, which I thought of, in about January 2010, Peter Smeros was selected as an acting team leader?---Ah
hmm.

30 All right. Now a suggestion has been made that you suggested that because of low morale within the desktop support teams that there should be an internal recruitment to fill a temporary team leader role. Do you recall any conversation to that affect?---And is that the role that Mr Smeros was appointed in an acting capacity?

Yes, yes?---I don't recall that, no.

Was there low morale within desktop support teams as at January, 2010?
---Not as far as I knew.

40

But you may have had limited knowledge of what was going on at the (not transcribable)?---Oh sure, yeah, yep.

Okay. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes, cross-examination, Mr McIlwaine.

MR McILWAINE: Thank you, Commissioner. Mr Pigot, I represent the interests of Mr Mylonas?---Ah hmm.

Just a couple of matters. Do you have your statement in front of you?
---Yes, certainly.

If you could go to paragraph 75 and 76?---Yep.

I think you're familiar with those paragraphs?---Yes.

10

You've been asked questions about it today?---Yes.

And you've been tested by Counsel Assisting about those statements you make there?---Yes.

20

But the situation is that you affirm the opinion that from your experience dealing with people employed through Succuro Recruitment that you were, to use your words, very happy with the quality of the contractors?---No, I actually would affirm that but also actually qualify that, that is primarily at the actual team leader level.

Yes, right?---Since it was my, my primary opportunity for observation.

Right. So the people you personally observed - - -?---Yeah.

- - - who had come through Succuro were the team leaders?---Yes.

30

But I take it also you received positive feedback through your team leaders about the other persons who had been employed through Succuro?---Not, not explicitly about Succuro as opposed to our permanents or as opposed I guess to other agencies.

Perhaps I'll put it another way?---Yep.

You did not receive any complaints through your team leaders or directly to yourself about the quality of the people being provided by Succuro?
---Correct.

40

All right. And you did not – it did not come to your attention that there were complaints about the, the administrative capacity of Succuro in terms of paying the contractors who they were providing?---No. However I actually wouldn't expect to actually have such issues raised with me.

I understand that, but certainly nothing came to your attention?---No.

Right. Now – and I think you said – you say in paragraph 75, you were in fact were aware that a higher number of contractors were being sourced from Succuro Recruitment but because of what feedback you'd received

you were not concerned about that?---Yeah. And it's an actual I think high number in my field services too.

All right?---Field services was actually one of seven individual teams I was managing.

Yes, okay. And so a number of other contractors were employed in the other teams under your supervision. Correct?---Correct.

10 And other firms were used for recruitment in those sections. Is that correct?---Ah hmm. Correct.

I think in paragraph 35 of your statement you talk about an email that you sent on 27 November?---Yep.

And you talk about five recruitment agencies including Succuro?---Yep.

20 And you'd become aware the amount of monies that were paid to Succuro over the number of years. Correct?---Ah hmm.

But have you done any comparison between the amount of money that was paid to Succuro over that period of time and the amount of money that was paid to the other recruitment agencies?

MR GOLLAN: I object. Only as to time - - -

MR McILWAINE: Certainly.

30 MR GOLLAN: - - - when that exercise might have been a mistake.

ASSISTANT COMMISSIONER: Yes.

MR McILWAINE: In relation to the period from late 2008 to the present time have you at any time sat down and made a comparison of the amounts paid to Succuro as against the amounts paid to those other companies?---No, I have not.

40 So you're unable to say whether the amounts paid to Succuro, for example in the financial years 2009 to 2010, 2010 to 2011 you're unable to say what comparison they'd be to what was paid to those other companies. Correct? ---Correct.

Thank you. Just one further matter. You corrected a number of points in your statement. Can you turn to page - paragraph 101 of your statement? ---Ah hmm.

You see there it's a statement about the payment of the placement fee for the recruitment of Mr Hunt?---Yes.

Were you here yesterday when we heard the evidence - - -?---Yes, yeah.

Do you accept that - - -?---Yes.

- - - you were in error about that?---Yes.

So it's clear isn't it that you were aware at the time it was paid that a placement fee was paid to Succuro, correct?---Correct, yes.

10

I think the documents would establish that you received a copy of an invoice and a copy of the requisition?---Correct.

You also saw a document yesterday, did you see a document on the screen yesterday which was called a - it was a document seeking waiver of the requirement to have three quotes?---Yes, I - - -

Do you remember seeing that document?---Yes, sure, and I was able to read the heading on the screen.

20

Are you able to say whether or not you saw that document at the time you signed that, approved that invoice?---No. No, I can't recall.

In any event you accept, don't you, that Mr Hunt was not an external contractor working at the University at the time of his recruitment? ---Correct.

You accept that he was paid a placement fee which you ultimately approved?---Correct.

30

You said in your statement that it was not normal procedure for such a fee to be paid - - -?---Ah hmm.

- - - unless he was an external contractor. Do you still adhere to that evidence?---Certainly I do. May I amplify on our process?

Sure?---Okay. My understanding as I think I said earlier on was that all of our actual permanent recruitment was actually managed by Sydney Recruitment. Okay. They will perform the advertising which is normally actually a University initiated process. In this case the actual first like round of advertising was unsuccessful. That's a pretty rare occurrence, I can't recall another circumstance under which that's actually occurred. Okay. Now, I had assumed that I guess the actual subsequent step of engaging an agency and in this case Succuro in effectively what's an industry search then an actual placement fee as a result of a successful search was actually performed by I think Mr Demiralay continuing to work with Sydney Recruitment. That's I guess the actual I think part of my actual remark about it's not a normal occurrence.

40

I think you've lost me a little bit there. The long and the short of it is that because you signed the approval you were aware at the time you signed the approval that a fee was being paid.

MR GOLLAN: Well, I object to this. I'd like to see the document that's said to have been approved. The waiver is on 6 May. The approval that comes from him in his email is 3 May. The evidence that was given was that having gone through that process it went to some other fellow that
10 disallowed it and the only person that signed that waiver is Mr Demiralay.

MR McILWAINE: I'm not suggesting that this witness saw the waiver, there's no, there's actually no evidence (not transcribable)

ASSISTANT COMMISSIONER: No, it appears that the witness was willing to approve it without the waiver - - -

MR McILWAINE: Certainly I'm not suggesting he saw it - - -

20 ASSISTANT COMMISSIONER: - - - on some basis.

MR McILWAINE: - - - because if that's, if I've misled the witness in that way, I'm not suggesting - because there certainly seems to be no evidence that he saw the waiver. The evidence would suggest that he saw - and I can take the witness to the documents, the invoice and the requisition because they're referred to as being attached to the - - -

ASSISTANT COMMISSIONER: Well, can I just ask - - -?---Yeah.

30 - - - Mr Pigot, did you approve the payment of that placement fee on the understanding that the person had been an external contractor?---No, I, no I actually approved that placement fee on the understanding that Sydney Recruitment had agreed with Mr Demiralay to actually take a particular second round action - - -

Right?--- - - - of engaging an agency for a search for an appropriate candidate.

40 So Sydney Recruitment's the in-house - - -?---Correct, yeah.

- - - people and you thought if they had agreed with this then a placement fee would be appropriate?---Yeah., yeah.

Even though the person hadn't been an - - -?---Yeah.

Which is the normal way in which a placement fee - - -?---Mmm.

- - - would become payable?---Yes. No, I actually would add that assumption is actually based on, based on common industry experience, not actually specifically about University experience. As I said in my University experience typically a successful candidate's found from the actual first round of advertising.

Yes. And if the person's not already an external contractor - - -?---Mmm.

10 - - - and the agency sources them then they get their money through the hourly rate that's charged?---Correct, yeah.

Not through getting a lump sum - - -?---Correct.

- - - placement fee up front?---Yes.

Yes, Mr McIlwaine.

20 MR McILWAINE: I might just ask this question, where did you gain the understanding that Sydney University had approved this payment?---My understanding was that I mean Sydney Recruitment were actually appointed by the University to manage every permanent recruitment and I actually wasn't aware until Mr Zhou's statement yesterday that I think Sydney, Sydney Recruitment had agreed with I think Mr Demiralay to actually take a step back from that process in the second round.

30 I don't know if you've answered my question which was how did you come to understand that Sydney University had agreed with what Mr Demiralay was doing? Was that just something you assumed or someone told you?
---An assumption, an assumption.

Just going back to your industry experience prior to joining the University - - -?---Mmm.

- - -and you spoke about the fees?---Ah hmm.

40 And you had an understanding, did you not, that certainly at least in private industry that if a recruitment firm provides an employee who works for a number of months and that person becomes a permanent employee some fee may be payable to the recruitment company in that circumstance. Is that - - -?---Under certain circumstances, not in all circumstances.

(not transcribable)

ASSISTANT COMMISSIONER: And the purpose of that fee is to compensate them for the fact that they would have continued to get a percentage of the hourly pay and not they're not?---Yeah, mmm. I mean, and in my experience - and I can't remember the specifics, but in my

experience that, that it would, would, would normally be written into the contract or agreement up front.

Yes. Although the problem here seems to be there were no contractor agreements?---Yeah.

Yes. Mr Chalmers or Ms - you'll have to come forward.

10 MR CHALMERS: Yes. Sir, I act for Mr Passe?---Ah hmm.

Paragraph 66 of your statement?---Ah hmm.

You say you became aware that Mr Demiralay had a previous working relationship with Mr De-Silva?---Yes.

Can I suggest to you that it was Mr De-Silva who told you about it?---I cannot recall.

20 I see. But it's possible that that's the case?---Possible, yes.

That's the evidence.

ASSISTANT COMMISSIONER: Thank you, Mr Chalmers.

MR STEWART: (not transcribable) Commissioner.

Mr Pigot, my name is Mr Stewart and I appear for Mr Smeros?---Ah hmm.

30 I just have a few questions in relation to that. Sir, in relation to your paragraph 102 of your statement - - -?---Ah hmm.

You say that he obtained the permanent position in April 2009, I would suggest to you it was actually June 2009 when he was made permanent? ---Okay. And is that consistent in, in the page 91 of the attached documents which I don't have, I'm sorry? Could I have that copy back?

(not transcribable)?---Thank you. June?

40 Yes?---Yes, yeah. I accept that.

Okay. In relation to - you weren't involved when Mr Smeros was a contractor?---I don't believe so.

But when he was appointed permanently - - -?---Mmm.

- - - in your statement there you say that you signed off on that?---Correct, yeah.

Counsel Assisting this morning asked you some questions about reference checks. If you'd signed off on his permanency would you have read those reference checks?---Typically no.

You don't?---No.

So if it had been mentioned in that reference check that he'd previously worked for Transfield and other companies you wouldn't see that at the time?---Correct, yes.

10

But obviously a reference check would have been done in June 2009 prior to him becoming permanent?---Yes, and I would expect Sydney Recruitment to perform such a reference check.

To perform such a reference check?---Yeah.

That reference check, does that involve someone from Sydney Recruitment contacting someone at Transfield?---That's actually my understanding.

20

Enquiring as to whether or not he was a suitable employee?---I'm not - not intimately familiar with (not transcribable) reference check process.

Have you ever seen a reference check that's come back negative when someone's been approved for a position?---I don't believe so, no.

So you signed off on that. In 2010 Mr Smeros became an acting team leader?---Correct.

30

Once again you signed off in relation to that?---That's actually not - well, that's typically not a - not a formal process inside the University, if there's extra remuneration involved there's an actual - there is an actual - there is an actual higher duties allowance for - so I can't recall if I signed - signed that - that - - -

I'll just take you forward then to - - -?---Mmm.

- - - after Mr Demiralay left.---Yeah.

40

You then appointed Mr Smeros as the acting - - -?---Correct.

- - - team leader?---Correct.

(not transcribable)?---Yes. No, I appointed him as an acting team, and fairly soon thereafter within a number of weeks that team and another team moved under another IT director in a smaller organisation inside ICT. So I actually believe he's actually still in an active capacity but I'm not sure given that he isn't there any longer in my- my part of ICT.

Well, I put to you that he's still in that position (not transcribable)?---No.

Obviously the reason you recommended him was the fact that he was clearly (not transcribable) for the job?---Absolutely.

10 You've given evidence today that the team worked well (not transcribable)?---Well, the actual leadership team inside Field Services was a mixture of contractors and also University permanents, okay. My actual perception of (not transcribable) the overall team and of the individuals was absolutely positive, yes.

Obviously for you to recommend Mr Smeros I'd suggest that you were more than happy with his ability?---Certainly.
Is it the position that Mr Smeros approached you on one occasion in relation to Mr Selamat?---I don't recall.

Well, I put it to you that he approached, and he suggested that Mr Selamat might be a person who could be employed as a contractor?---I don't recall.

20 You don't recall?---No, no.

I have no further questions.

ASSISTANT COMMISSIONER: Yes. Thank you, Mr Stewart.

MS McGLINCHEY: Commissioner, (not transcribable)

ASSISTANT COMMISSIONER: Yes, Ms McGlinchey.

30 MS McGLINCHEY: Mr Pigot, I appear for Mr Tsipidis.---Ah hmm.

Mr Pigot, do you have your statement with you?---Yes, certainly.

Could you just have a look at paragraph 90 of your statement?---Ah hmm.

Just see towards the bottom you say, "I was not aware that Mr Tsipidis is the brother-in-law of Mr Demiralay"?---Correct.

40 Could I just take you back to a time when Mr Tsipidis originally came on board - - -?---Ah hmm.

- - - as a contractor?---Yeah.

Did you have any conversations with Mr Demiralay at that time about a previous relationship that he may have had with Mr Tsipidis?---Not that I recall.

Is it possible that you had a conversation with him?---(not transcribable) if it was at the extent of an actual brother-in-law of his relationship, yes, I think I'd have actually remembered that.

Is it possible that you had a conversation with Mr Demiralay where he declared that he had a previous relationship perhaps not declaring a brother-in-law relationship but he had a previous knowledge of him or some sort of previous relationship?---(not transcribable) I mean if it was a previous knowledge, yes, I would say it's actually possible. If it extended to an actual close relationship I would think it's unlikely.

You don't have a clear recollection of any particular conversation?---No.

Also in paragraph 90 you say, "I was also not aware that Mr Demiralay used to work for Mr Tshipidis's wife with - - ?---With.

With, sorry, yeah, sorry, okay. How did that come to be in your statement?---I believe that in my actual interview with (not transcribable) investigator we were exploring various iterations of the individual relationships and I can't recall specifically why that - that - that one was for importance. I know nothing of Mr Tshipidis's wife.

So you have no knowledge at all of any time that she may have worked with Mr Demiralay?---No.

If it was to be read as a suggestion that you did have some knowledge about that that would be incorrect?---Correct, yes.

Commissioner, just at this point before I move on I would apply for a suppression order on that last sentence. I understand from my client that it is causing some considerable concern to Mr Tshipidis. If counsel assisting is not a position to put forward any further evidence on that point, it just appears that it's incorrect and misleading.

ASSISTANT COMMISSIONER: Well, yes, I guess even though it's a negative it does seem to suggest that that's a fact of which this witness is not aware. Do we know whether that's true or not, Mr Morris, that Mr Demiralay used to work with Mrs Tshipidis?

MR MORRIS: Mr Demiralay put Mr Tshipidis's wife forward as a reference for CGU Financial.

ASSISTANT COMMISSIONER: Yes. There does appear to be evidence that Mrs Tshipidis was - - -

MR MORRIS: It was only a six month period and Mr - I think the records will show when the reference check took place that Ms Tshipidis or Mrs Tshipidis stated that Mr Demiralay had worked for her for a six month period

and they also had a four year relationship outside of the work environment but did not disclose the marriage, according to the form.

ASSISTANT COMMISSIONER: Yes. I'm not willing to suppress it at this stage.

MS McGLINCHEY: That's fine, Commissioner. I'll re-check those matters.

10 MR MORRIS: I'm happy to alert my friend to the document at the luncheon adjournment so that she can satisfy herself (not transcribable)

ASSISTANT COMMISSIONER: Certainly.

MS McGLINCHEY: I'm sorry, Mr Pigot, (not transcribable) Could you have a look at paragraph 91.---Ah hmm.

When you say I understand that Mr Tsipidis should not have been allowed to apply due to the University's policy in place at the time - - -?---Mmm.

20

- - - as he was an external contractor. I just want to take you to (not transcribable) When did you first form that view that he should not had been allowed to apply?---(not transcribable) that's an actual - that's an actual (not transcribable) review. We've had other circumstances over the past year or 18 months that has actually clarified that - that external contractors working (not transcribable) at University aren't eligible to apply for internal only (not transcribable) roles. Now at the time Mr Tsipidis applied I'm not sure whether that was actually quite as clear as it is now.

30 When you say it's a contemporaneous view you mean contemporaneous now or when you made your statement?---Oh, certainly I guess - certainly when I made my statement as well as now.

What about when you signed off on his employment?---I'm not sure.

What are you not sure of, that that was your view or you're not sure that the situation was clear then?---No, I'm not sure that the situation was actually clear then.

40 Would you be in a position to say whether there are other people who are also external contractors who also applied for full-time positions and were appointed?---Oh, so I'm actually not able to identify specific examples as I said we've actually clarified it now.

The situation would be different now - - -?---Mmm.

- - - but you don't know what the situation was at the time?---Correct.

It certainly wasn't a secret that Mr Tshipidis was a contractor at the time that he applied for the position?---No, no.

You were aware of that?---Oh, yes.

In fact everybody was?---Yep.

Right?---Yep.

10 Do you recall having a very positive view of his work at the time that he applied for this position?---I, I certainly had a positive view, yes.

All right. Do you recall comments to him such as we're going to convert you soon?---No, I don't. I might have said I think we are advertising that role and you will actually have an opportunity to apply.

So you suggested that he apply?---Certainly I suggested there was an opportunity that he may choose to avail himself of.

20 And you were kept apprised of the process of his appointment by various documents came across your desk?---Yeah, normally in these sort of appointments I would only see it at the end.

Right?---But I was apprised in terms of ongoing conversations.

Ongoing conversations with Mr - - -?---Demiralay.

- - - Demiralay. Right. So you were aware that the process was being undertaken that Mr Tshipidis was applying and that the process was working its way through channels?---I don't know when I became aware that Mr Tshipidis was applying.

30 Well you certainly became aware at the time when you signed off on the request for appointment on 9 October?---Oh, certainly.

All right. And you would have read that document and had no difficulty with anything that was in it?---Certainly at the time, no.

40 You also say in paragraph 19 that it's your – that a formal interview should have been conducted.

ASSISTANT COMMISSIONER: Paragraph 91.

MS McGLINCHEY: I'm sorry, paragraph 91. Have you got it?---Yes.

I'm sorry if I mislead you?---All right.

Paragraph 91?---Yes.

Is that also an example of your reflection of the situation now or is it a reflection, a reflection of the situation at the time?---Certainly it's a reflection now and I feel as an actual hindsight thing I, so I made an omission there. I actually should have insisted on an interview.

Sorry, I didn't hear that, insisted on - - -

ASSISTANT COMMISSIONER: He should have insisted on an interview.

10

MS McGLINCHEY: Paragraph 92?---Ah hmm.

You say you were shown the Selection Committee report for Mr Tshipidis by the Commission investigator?---Ah hmm.

Had you seen it before that time?---I do not recall specifically. Given that I approved the appointment, probably.

20

Thank you. Just one more or a couple of, a few more things. Paragraph 93, in hindsight and now being made aware of the relationship between all persons involved et cetera, et cetera, what do you mean by that? Who, who made you aware of what?---So I think when I was made aware that Mr Tshipidis was actually Mr Demiralay's brother-in-law, okay, that actually was enough (not transcribable) in terms of that actual, in terms of that actual close personal relationship to actually say that that if I had known about that at the time we'd have actually found another approach for interviewing Mr Tshipidis.

30

All right. Now just moving away from your statement, you were involved with the appointment of Mr Demiralay into his permanent position in 2009. Is that correct---Correct, yes.

40

What was -- were you very involved in that process?---Well as I was reminded by Counsel Assisting, that actually was (not transcribable) conversion of a three year fixed term into an ongoing situation, as actually still relatively new into I guess the University, I'm actually certainly I guess no expert on I guess the nuances of an actual three year fixed term versus an actual continuing, certainly I can recall speaking with HR at the time, it appeared a sensible conversion on an ongoing basis.

Did you review any documents at the time?---I don't recall.

Do you recall seeing Mr Demiralay's CV at the time?---No.

Do you recall seeing anything about his references as the time?---No.

Would you have expected to see those documents?---Well, like I say I mean, so after a three year fixed to an engagement, obviously those original

documents are actually three years old, so I can't recall enough about how their process is supposed to work in order to say.

Oh, so putting aside the process, but in this particular case you – would you normally ask to see or do you recall seeing any documents or seeing Mr Demiralay's CV in particular?

MR GOLLAN: Well I object to that. He's already answered that question, he's answered it twice in fact and you're talking about general then this
10 specific (not transcribable)

MS McGLINCHEY: Yes, I (not transcribable) Just to be clear do you recall seeing Mr Demiralay's CV?---No.

Thank you.

ASSISTANT COMMISSIONER: Thank you. Yes, is there any other person who wishes to, yes, Mr Gibson.

20 MR GIBSON: Yes, I seek to ask questions.

ASSISTANT COMMISSIONER: You'll have to come forward.

MR GIBSON: Mr Pigot, my name is Gibson and I represent Mr Demiralay?---Ah hmm.

You came to Sydney University in February 2008?---Correct.

30 And is it correct that there was – at the time Mr Kovari was the director?
---Correct.

And was there some period of handover for some months?---Yeah. I'm not sure about handover. My role was an actual newly created role which inherited two existing, two existing individual divisions inside IT. So I inherited Mr Kovari and another IT director and across time I made small organisational changes that ultimately resulted in – you know the removal of I think Mr Kovari's role and all of Mr Kovari's direct reports reporting directly into me.

40 That would explain I think the fact that Mr Angelopoulos and Mr Passe-de-Silva were in fact employed after you arrived but you didn't approve their -
- -?—Correct, yes.

- - - you didn't have any role in approving their recruitment?---Correct.

That was Mr Kovari?---Yep.

Just turning to Mr Demiralay, he was a – in a position of a manager?---Ah
hmm.

Which was direct report to you. Is that right?---Correct.

I want to ask you questions about budgets for your area, department, area,
what was your, what were a director of?---Division.

Division?---Yeah.

10

You had a budget for your division?---Correct.

Did the managers have their own budgets?---They actually had individual
responsibility centres, yes.

Yes. And did that involve a monthly budget and include that what I would
describe as a head count budget?---Both, both.

20

That is they had responsibility for financial expenditure and the number of
people that were reporting to them?---Correct.

Obviously there's some overlap in those two things?---Correct.

Did you, was it part of your role to review those budgets?---Yes.

And do I assume ensure that they were keeping to the budget?---Govern
rather than ensure.

Govern?---Yes.

30

Was there some trigger that if someone was going over budget that it would
come to your attention?---Yeah. It's a pretty collegiate management (not
transcribable) style across the University. Monthly reports came from I
think finance, which were shared fairly widely across the management team.

So there was some discussion, regular meetings about budgets?---Yeah.

And headcounts?---Yep.

40

Do you recall that in – do you recall any details about particularly Mr
Demiralay's budgets and headcounts from 2009 and 2010? I'm going to ask
you some questions, I just want to - - -?---Well yeah, I mean in any specifics
no, but ask, yeah.

So if I suggested to you that in the year 2009 – well firstly I should start
with this, do you recall what sort of budget values they had the managers?
---No, I don't, I'm sorry.

Was it in the millions of dollars?---Oh yes, certainly.

So (not transcribable) that Mr Demiralay had a budget of about \$2.7 million. That's - - -?---Yeah.

10 For the year 2009?---His area grew as we have heard in the shared services thing, across those several years. I think he actually finished, well I guess he sort of moved into another IT director with about, with about 70 full time the equivalent, so 2.7 million as a progressive move along that that would actually be a reasonable estimate.

Yes. And would you not be surprised that in 2010 it was 3.6 million?---No, sure.

ASSISTANT COMMISSIONER: Mr Gibson, I'm not sure what the relevance of this evidence is.

MR GIBSON: Well, I'll try and get to it.

20 ASSISTANT COMMISSIONER: Could you?

MR GIBSON: Well, did those budgets also include training, was there a specific component for training?---There was but it - and it normally approached as an ICT wide formula.

Was it common practice to provide training to contractors?---No.

It was not?---No.

30 And was that industry standard?---That's actually my experience within the industry. I'm not sure I would actually go, go so far to say it's an industry standard.

But you've got a lot of experience in the industry?---Sure. Yeah, I guess maybe if I can actually just add there, I mean, every organisation runs its workforce differently with a mix of permanent and contractors under certain arrangements and skills and capabilities so I actually don't presume to actually talk on behalf of every organisation.

40 ASSISTANT COMMISSIONER: Well, I presume if you had a contractor there long term like two years or something - - -?---Mmm.

- - - you might consider giving them some training?---Sure.

MR GIBSON: I just want to go back to this (not transcribable). Were you aware that it was Mr Demiralay's responsibility in 2009/2010 he had under-budgeted in relation to his headcount?---I'm actually not aware specifically but I'm not surprised at, at that.

And if he was under budget in his headcount was that - and, and his financial (not transcribable) that could mean that he could have gone and employed more staff if necessary?---Yeah, with the actual quantification as I observed before, budget management inside ICT is actually quite a - it is actually quite a collegiate manner, quite an actual collegiate approach rather and an open approach.

10 But if he had reached his headcount and his financial budget he couldn't have employed any more people?---Typically no, with an exception that in our actual shared services transition over several years so, so an individual budget was actually transferring in from our actual faculties and schools into ICT so it, so it, so it was something of a flexible, a flexible environment.

You made some mention of the fact that the, because of the shared services arrangement the, the area of responsibility for Mr Demiralay increased - - -?---Mmm.

20 - - - quite dramatically didn't it?---Correct, yes.

And you mentioned that he ended up with responsibility of, I think you mentioned a figure of 70 - - -?---Mmm.

- - - staff - - -?---Yeah.

- - - reporting to him and when you started there would have been significantly less?---Yeah.

30 Does that mean that there was quite a demand for contractors and new staff during that period?---For our shared services transition most of the time but actually not all of the actual time the individual faculty areas had their own Field Services people who would actually transfer over. Typically we, we would use contractors in the exception cases when perhaps people weren't there already, perhaps they'd opted not to transfer into ICT so it actually was a flexible arrangement handled individual case by case.

Is that, was that a yes to the question that there was an increased demand for contractors and staff during the period?---Yes.

40 Contracts for contractors, you are not aware of any overarching contract or if you want to style it heads of agreement with any recruitment agencies?---Correct.

So it was suggested there was such a thing you would disagree with it?---No, I actually wouldn't know.

You don't know?---No.

So within ICT you were not aware of such contracts?---Within my area of ICT I'm actually not aware.

Does that mean that there was no way for you to compute the aggregate amount of individual contracts to a particular agency?---I probably could have requested our actual procurement people to actually perform a manual aggregation.

10 But that information was not normally available to you?---Correct.

So you didn't know how much the value of the individual contracts was going to Succuro?---The value of the aggregate of individual contracts?

Aggregate, yes?---Correct.

20 In terms of that you know the general, general salaries of the people who report to you and who are under them (not transcribable)?---Certainly of those who are actually reporting to me, yes, and with I guess, with I guess varying, varying levels of I guess precision underneath that.

Yes. So for instance a team leader they make somewhere between, was it 90 and 100,000, maybe 85?---Yeah. Yeah, and of that order. There are individual grades within each salary band associated with, with each role.

At the University the positions carry a grade?---Ah hmm.

And that determines the salary?---Correct.

30 So a team leader position may have, there may be some variation in the grades depending on the responsibilities of the position?---Correct.

So a team leader who was in that range and I would clarify that with you, I said 85 - - -?---Mmm.

- - - to 100 was (not transcribable)?---That's, that's (not transcribable) reasonable.

40 The manager above them would be earning more than that one assumes?
---Typically, yes.

And do you know how much that was?---It'd actually vary. Even our manager roles are actually graded.

And - sorry, going down, now so then - it's not unusual, is it, to work with people that you've or to recruit people that you've known before?---So are there two, two questions there?

Well, let me try and ask one?---Okay, yeah.

You were aware that two staff had worked previously with Mr Demiralay.

MR GOLLAN: I object as to time. He makes it clear in his amended statement.

MR GIBSON: I think you made an amendment to your statement and if I can turn it, 66 I'm told?---Ah hmm.

10 Sometime after the recruiting process had been completed you became aware that two persons, Tim Passe-de-Silva and Adrian Buxton had previously worked with Mr Demiralay?---Ah hmm.

Are you able to be more precise about when it was that you found that out?
---No, I'm not.

Could it have been through this collegiate process where there's talking and meetings that that came up?---Sure.

20 And if I suggested to you that it was - I'll withdraw that. And did you through those discussions, however you found out - - -?---Mmm.

- - - find the detail of where they worked together?---I can recall specifically (not transcribable) internet both for Mr Passe-de-Silva and also Mr Buxton.

At the time when you found did that cause you any concerns?---Not really, no.

30 You weren't part of the recruitment process for either of those two persons Passe-de-Silva or Buxton?---I was an approver for I guess the engagement of Mr Buxton.

Yes. You approved the appointment of Mr Buxton. At the time you approved you weren't aware of the previous working relationship?---
Correct, yes.

In relation to Mr Tsipidis - - -?---Ah hmm.

40 - - - you're now aware of the familial relationship between Mr Demiralay and Mr Tsipidis?---Correct.

You've said that that if you'd known that at the time you might have taken another approach?---Ah hmm.

By that do you mean that it would have been a different constitution of the Selection Committee?---Perhaps, yes.

Any - - -

ASSISTANT COMMISSIONER: Well, why do you say perhaps?---'Cause I'm not sure - - -

Would you have let Mr Demiralay sit on a selection panel for his brother-in-law?---No, no.

10 Okay.---No, I mean - and I'm saying - I mean because I am only really not - not sure. I actually may have advertised the role externally and internally, okay and I'd looked at other ways about (not transcribable) the Selection Committee.

MR GIBSON: But that fact of their relationship would not have prevented Mr Tspidis applying for the job?---Correct.

Or in fact getting the job, that fact alone?---Correct.

20 In relation to Mr Passe-de-Silva and Mr Buxton, if that prior working relationship had been disclosed that may not have replied a different constitution of the Committee, Selection Committee?---It may not have, yes.

If it had been declared?---Yeah.

Because indeed in your own experience the Committee that selected you comprised with people that you had worked with or a person?---A person, yes.

Mr (not transcribable)---(not transcribable)

30 (not transcribable)?---Ah hmm.

You had worked with him at AMP?---Correct.

He was on the Selection Committee that selected you?---Correct.

40 Were you unaware of what disclosures he may or may not have made?---Correct. However I actually (not transcribable) actual Selection Committee (not transcribable) my appointment. That actual - that actual previous working relationship was openly discussed across the Selection Committee. I think that's all I have for you, Mr (not transcribable). I'll just check my notes.

I'll just put this to you, are you sure that your knowledge of Mr Demiralay's previous working relationship with Mr Passe-de-Silva and Adrian Buxton didn't come to your attention prior to their appointment?---To the actual best of my (not transcribable) knowledge and also memory, yes.

And it seems – I just want to clarify this, but it seems you’ve answered some questions about the approval process. After a Selection Committee interviews applicants there is a Selection Committee report which is provided to you to sign off on. Is that right?---Ah hmm. Correct.

It may or may not have gone to other departments as well but ultimately it comes to you?---Correct.

10 And for the people within your division, the buck stops with you in terms of approving people?---Correct.

I thought I heard you answer a question earlier to say when you got those reports you did not read the referee reports?---The actual, the actual long form reference reports?

Yes?---Which were prepared by I think, which were prepared by I think Sydney Recruitment?

20 Yes?---Sometimes, but I, but actually not always physically attached to an actual Selection Committee report. However I guess there is always a notation inside the actual Selection Committee report asserting that reference reports have been done.

Yes, there’s a tick-a-box - - -?---Yeah.

- - - that says reference checks done?---Yep.

30 So if the reference report was – I’ll withdraw that. In relation to Mr Tsipidis can you remember if you saw the reference report?---No, I can’t.

And in terms of Mr Demiralay’s employment his contract was converted to a permanent position - - -?---Mmm.

- - - that happened because his employment was satisfactory at the very least?---Mmm. Certainly.

You were happy with his performance?---Absolutely.

40 And did you – the process to convert that was that on your recommendation?---I cannot recall what was the exact process. Certainly I supported such an actual conversion, yes.

Thank you.

ASSISTANT COMMISSIONER: Thank you Mr Gibson. Yes, well if there’s nothing else for this, oh Mr Eurell, you have something.

MR EURELL: Sir, I just want to – I, I act for Mr Angelopoulos?---Ah
hmm.

I just want to ask you a couple of questions about paragraphs 81 and 82 of
your statement. Do you have that in front of you?---Paragraph?

81 and 82?---Oh, 81?---Ah hmm.

10 And they relate to interviews in relation to Mr de-Silva and also an internal
appointment in relation to Mr Angelopoulos?---Yes.

And they both took place on the same day is your evidence?---Right, yeah.

And I presume that you have received the Selection Committee reports very
soon thereafter if not the same day?---Okay. No, I wouldn't as I note at the
end of paragraph 81, I actually had no involvement in this, this actual
recruitment. Mr, Mr Kovari signed, signed off on this one.

20 So you didn't see the reports?---No, no.

And what was the reason that it went to Mr Kovari instead of to you?---
Since at, at the time he was the IT director to whom Mr Demiralay reported.
And in turn Mr Kovari reported in to me.

ASSISTANT COMMISSIONER: Mr Eurell, he's already given this
evidence.

30 MR EURELL: I appreciate that. You see my question goes to when you
realised that or suddenly dawn on you that there might be something in it in
regards to Mr Angelopoulos sitting in on an interview for Mr Passe-de-
Silva.

MR GOLLAN: Is that a question?

40 MR EURELL: He suggested, you state there in your statement at paragraph
82 that in your view it would not be appropriate for Mr Angelopoulos to
form part of an external position Selection Committee for a similar position
to that which he interviewed. Where do you say it is recorded within the
University's policies or anywhere else that it's not appropriate for Mr
Angelopoulos to be sitting in on that Selection Committee?---That actual
statement was simply an actual view I expressed to the ICAC investigator
when I was shown this information. I had had no prior, prior understanding
of that.

MR EURELL: No, that's the question I asked you, that was initially where
I was going?---Oh, okay, I'm sorry.

What I'm asking you is, is where is it recorded? You told the ICAC investigators that that's your view. Where it is expressed for the benefit of Mr Angelopoulos or anybody else working in Sydney University that if they're asked to sit on a Selection Committee there are certain ones that they have to decline?---I think that my view was simply based on the actual timing that- - -

ASSISTANT COMMISSIONER: Yes, Mr Pigot- -?- - -that an event happened in the morning and in the afternoon.

10

Mr Eurell's asking you where is there a specific policy that would have alerted Mr Angelopoulos to this?---Oh, okay, okay. No, I'm actually not aware of an actual specific policy.

MR EURELL: It's not recorded anywhere?---Not as far as I now.

All right. So when you say it's inappropriate, there was no benefit, was there, to Mr Angelopoulos sitting in on that interview, was there?

20 MR GOLLAN: Well, I object to that.

ASSISTANT COMMISSIONER: Yes, I mean- - -

MR EURELL: Well, this is the manager of Mr Angelopoulos, he's expressing a view about whether or not Mr Angelopoulos is acting appropriately. Surely it's within the (not transcribable) of this witness's cross-examination to explain how and why he came to that conclusion?

30 MR GOLLAN: But that wasn't the question you put.

ASSISTANT COMMISSIONER: That wasn't the question and there was quite a complex relationship going on here between all these various people which we've heard about which it's unfair to ask this witness to, well, to put to this witness that there was no benefit to Mr Angelopoulos because what sort of benefit are we talking about, I mean keeping in good with Mr Demiralay, keeping the whole situation going, I mean it, it can't be answered in that form.

40 MR MORRIS: Look, I think also, Commissioner, the, what he thinks is inappropriate is the appointment of Mr Angelopoulos, not Mr Angelopoulos' assumption of the role.

ASSISTANT COMMISSIONER: Mmm.

MR GOLLAN: (not transcribable) my learned friend's observations.

MR EURELL: Well, that's not what the witness says in his statement. I'll rephrase the question this way. What exactly do you say was inappropriate?

---Sorry, I'm now lost. Can you actually refresh my, oh, here we are, yeah, I've got it.

In your statement, paragraphs 81 and 82 of your statement?---Mmm. I honestly don't know.

You don't know what would be inappropriate (not transcribable)---No.

Thank you.

10

MR GOLLAN: Might I just ask one question?

ASSISTANT COMMISSIONER: Yes.

MR GOLLAN: And I seek leave to do so. As the director and with the managers reporting to you, you relied upon them to be truthful and honest with you in all of their dealings. Is that right?---Absolutely.

Thank you.

20

ASSISTANT COMMISSIONER: Thank you.

MR MORRIS: I have just one question that follows on from a question that, Commissioner, you asked- - -

ASSISTANT COMMISSIONER: Yes.

MR MORRIS: - - -about the appropriateness of Mr Tsipidis, being a brother-in-law- - -?---Mmm.

30

- - -being appointed by Mr Demiralay into a position. What's your view about the delegation by Mr Demiralay to Mr Tsipidis of staff selection tasks, given that relationship, is that appropriate or not?---Mr Tsipidis' role was an actual coordination role as I understood it, not an actual delegated authority to a, to a point. So in terms of those actual coordination functions I actually, I'm able to accept that I guess those sorts of functions would actually be able to be performed.

40

Right. But what about sitting as the chair of a staff Selection Committee, appointing your brother-in-law as the chair of a staff Selection Committee? --- (NO AUDIBLE REPLY)

MR GIBSON: I object to that question (not transcribable)

ASSISTANT COMMISSIONER: Sorry, what are you asking, Mr Morris?

MR MORRIS: What I'm asking, look, it was never disclosed to you that Mr Tsipidis was Mr Demiralay's brother-in-law?---Correct.

Correct?---Correct.

Yet Mr Tshipidis was appointed to a position at the University- - -?---Ah
hmm.

- - -which you found as, which you considered to be inappropriate without
disclosure?---Yep.

10 And what about his appointment as the chair of a staff Selection Committee
for appointment of employees without disclosure of that relationship?---So
insofar as those employees were inside Mr Demiralay's overall unit, yes, I
would have concerns.

All right. Thank you.

ASSISTANT COMMISSIONER: Thank you. Yes. Well, if there's
nothing else you are now excused, Mr Pigot?---Thank you.

20 **THE WITNESS EXCUSED** **[12.56pm]**

ASSISTANT COMMISSIONER: And I think we'll recall Mr Anderson
and see how we can go with him. Thank you, you may go.

30 MR McILWAINE: In regard to Mr Anderson, Commissioner, I will have
(not transcribable) but I require a document which I've asked assisting,
Counsel Assisting. I have located an electronic copy of that document but I
don't have a hard copy. I'd be asking to defer my cross-examination till 2
o'clock so I can print it out so I can put it in the witness, the hands of the
witness.

ASSISTANT COMMISSIONER: All right.

MR MORRIS: We're still looking.

ASSISTANT COMMISSIONER: All right. All right. Well, all right. It
seems we can't receive it, Mr Anderson, I'm sorry.

40 MR MORRIS: (not transcribable)

ASSISTANT COMMISSIONER: I really don't see any point. I hoped to
be able to get him out of here before the luncheon adjournment but that's
obviously not going to be possible and in those circumstances I think we
may as well adjourn until 2 o'clock.

LUNCHEON ADJOURNMENT **[12.57pm]**