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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION MISTO

Reference: Operation E13/2009

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 16 FEBRUARY 2015

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.

THE COMMISSIONER: Yes. Just take a seat. This is a public inquiry arising out of investigations into whether Mr Brett Roberts corruptly obtained a benefit by issuing false invoices to the University of Newcastle, University of Sydney and Macquarie University.

10 The standard directions apply. They are available on the Commission's internet site. Before I call on Mr McGrath to open the public inquiry could I just indicate that according to the usual practice I will take a short adjournment after the opening and upon resumption I'll take the applications for leave to appear. Yes, Mr McGrath.

MR McGRATH: May it please the Commission.

20 Brett Andrew Roberts worked at the University of Newcastle, the University of Sydney and Macquarie University at different times between 2005 and 2013. Whilst performing technology management roles at those Universities he apparently perpetrated frauds on each one of them. The essential method of which was the same. It involved him arranging for fake invoices to be paid by the Universities for work on technology projects in which he was involved when no such work had ever been undertaken with the money paid on those fictitious invoices principally and ultimately either being received by Mr Roberts or applied to his benefit in some way.

30 The total amount of the fake invoices on which payment was made is \$113,715. Of that amount \$27,750 was paid by the University of Newcastle, \$43,065 was paid by the University of Sydney and \$42,900 was paid by Macquarie University. An attempt to obtain a further \$97,350 from Macquarie on another set of fake invoices was unsuccessful. In all instances except one with a slightly different nuance, the false invoices presented to the Universities purported to detail work undertaken by Management and Professional Services Pty Limited, a company owned and controlled by Mr Roberts' former work colleague and friend at that time Christopher Killalea. It seems that no such work was ever performed by Management and Professional Services for any of the Universities.

40 Mr Roberts held the following positions at each of the Universities in which he carried out work on their information and technology needs. From November 2005 to July 2007 as the program of work portfolio manager working on information technology projects at the University of Newcastle, from September 2009 to April 2011 as a transition manager in the Information and Communications Technology section at the University of Sydney and from July 2012 to December 2013 as the experience director in the Delivery, Operations and Logistics Department at Macquarie University.

This public inquiry will investigate the conduct of Mr Roberts whilst he occupied these positions across those periods to determine whether there were instances where he engaged in corrupt conduct within section 8(1) of the Independent Commission Against Corruption Act. The inquiry will also

consider the systems in place at each of the Universities which were apparently exploited by Mr Roberts and whether the systems as they currently exist are adequate to serve to prevent further such instances occurring.

I'll now turn to some background matters. First, the relationship between Brett Roberts and Christopher Killalea. Central to the proper understanding of the events relevant to this inquiry which later transpired involves a consideration of the relationship between Mr Roberts and Mr Killalea.
10 Mr Killalea and Mr Roberts will each appear as a witness at this inquiry. The evidence will suggest the following principal events in the progressive establishment of their friendship which provided the foundation for the method which Mr Roberts appears to have adopted in carrying out the alleged frauds on the Universities.

The two gentlemen met in April 2009 which Mr Roberts was working at Austrapay Limited, a cheque clearing house and Mr Killalea was working for Computer Associates as a senior project manager on a software
20 implementation project for Austrapay. Mr Roberts was managing that project. As well as their professional relationship they developed a firm friendship during that time, initially by having drinks together outside working hours but then later having more frequent contact principally when they worked together.

In 2002 Mr Roberts moved to become an operations manager at Unisys Global Outsourcing. Mr Roberts invited Mr Killalea, then still working for Computer Associates, to write and implement a computer program for the International Air Transport Association's automated booking and payment system. Over the following four years, from time to time, Mr Roberts
30 continued to engage the services of Mr Killalea in his position at Computer Associates on various projects that were managed by Mr Roberts at Unisys.

In May 2005 Mr Killalea left Computer Associates. In June 2005 Mr Roberts engaged Mr Killalea for a further project being undertaken by Unisys. On an occasion in August 2005 Mr Killalea arranged for Management and Professional Services to loan Mr Roberts \$10,450 following an unusual request from Mr Roberts in which he claimed he had reached the limit of his Unisys corporate credit card and needed to purchase equipment for Unisys. Money secured from Unisys subsequently repaid the
40 loan in October of 2005.

The friendship between Mr Killalea and Mr Roberts became such that from time to time when Mr Roberts was away from his Newcastle home and visiting Sydney, he would stay in Mr Killalea's home in Rozelle for the night. Sometimes this involved visits over the weekend including Mr Roberts' family as well. One year Mr Killalea even spent Christmas Day with Mr Roberts and his family.

In November 2005 Mr Roberts left Unisys and commenced working at the University of Newcastle.

The events involving the alleged corrupt conduct of Mr Roberts whilst working for the University of Newcastle and Mr Killalea's involvement in those events will be outlined in greater detail shortly.

During that period, Mr Roberts and Mr Killalea remained friends and in contact. Mr Roberts continued to visit Mr Killalea's home.

10

In 2007 Mr Roberts left the University of Newcastle and commenced working as the Director of Information Technology at the financial exchange business known as NASDAQ OMX. This involved Mr Roberts having to commute to Sydney from his Newcastle home. Mr Roberts and Mr Killalea came to an informal arrangement. Mr Roberts could stay at Mr Killalea's home most Monday and Thursday nights and occasionally on the weekend, sometimes also including Mr Roberts' wife. Often when Mr Roberts stayed there, Mr Killalea was not there. When Mr Roberts stayed at Mr Killalea's Rozelle home, Mr Roberts had unrestricted access to all parts of it.

20

In September 2009 Mr Roberts commenced working for the University of Sydney and remained there until April 2011.

Again the relevant events involving Mr Roberts during his time at the University of Sydney which are the subject of this inquiry will be outlined in further detail shortly.

30

During the period that Mr Roberts worked at the University of Sydney he continued to commute from his home in Newcastle and reside most Monday and Thursday nights at the home of Mr Killalea, continuing their previous arrangement.

40

For a time after Mr Roberts ceased working at the University of Sydney he no longer had the need to reside at Mr Killalea's home. Their Monday and Thursday nights arrangement resumed however when Mr Roberts commenced working at Macquarie University in July 2012. This inquiry will also focus on events which occurred while Mr Roberts worked at Macquarie University in which Mr Killalea was involved, as will also be summarised soon.

Mr Killalea developed the confidence to place a considerable amount of trust in Mr Roberts. A demonstrative example of this trust is seen in the fact that Mr Killalea appointed Mr Roberts as trustee of a self-managed superannuation fund of Management and Professional Services.

The friendship between Messrs Roberts and Killalea suddenly ceased in July 2013 at Mr Killalea's instigation. Since then there has been no contact between them. Why that occurred is relevant to this investigation.

10 I'll now turn to Management and Professional Services Pty Limited. As stated earlier, that company is Mr Killalea's company. Mr Killalea and his brother, Richard, established it in 1992 originally under another name. In 2008 Richard Killalea ceased to be a director and shareholder, placing the company entirely in the ownership and control of Christopher Killalea with a change of name of the company to Management and Professional Services. Mr Killalea was also the sole employee of Management and Professional Services. It was a corporate means by which Mr Killalea offered his consultancy services in project management in a range of different areas, including technical infrastructure projects.

20 The evidence will establish that Mr Roberts never owned, controlled or managed Management and Professional Services. It is also anticipated that it will be shown that neither Mr Killalea nor Mr Roberts ever did any work on behalf of Management and Professional Services for the universities. Despite this, Mr Roberts has seemingly used Management and Professional Services to bring about the alleged frauds.

30 I'll turn to consider the matters involving the University of Newcastle. Mr Roberts worked at the University of Newcastle for about 18 months from November, 2005 to July, 2007. His position was titled program of works portfolio manager. He was a contractor there with the work having been arranged through an agency known as Hudson Global. The work he undertook there related to a number of information technology infrastructure projects including the upgrading of the university's network fibre cabling and equipment.

40 Whilst working on these projects, Mr Roberts set up an introduction of Mr Killalea to the chief investment officer of the University of Newcastle, Peter Nikolettatos which led to an invitation to Mr Killalea to submit a proposal for Management and Professional Services to become an accredited supplier of project management services to the university on a specific information technology project. Mr Killalea made a presentation of his proposal but was unsuccessful with the work being awarded to another. Quite unusually from the perspective of what might be regarded as proper process, Mr Killalea was invited to participate in the appraisal of another person's presentation to the university.

A subject of this investigation is to determine whether, apart from that single occasion, Mr Killalea or Management and Professional Services ever had any other involvement with the University of Newcastle, including whether Management and Professional Services performed any work for it. The evidence of Mr Killalea is expected to be that he and Management and

Professional Services did not ever do any work for the University of Newcastle.

10 Despite this, three invoices respectively dated 22 September, 2006, 29 September, 2006 and 6 October, 2006 on Management and Professional Services letterhead for alleged work done by that company were submitted to the University of Newcastle each for the amount of \$9,250, each addressed to the attention of Brett Roberts, each on the network active equipment project and each for services described as consultancy and professional services.

The Australian Business Number details for Management and Professional Services as well as the postal and email addresses are all correct on the invoices. The method of payment section of each invoice invites payment by either cheque or electronic funds transfer. On their face, the invoices appear to be quite regular. It is anticipated that Mr Killalea will give evidence that he did not create any of these invoices. Who created the invoices will be investigated in this inquiry.

20 On 23 November, 2006 Mr Roberts authorised payment of each invoice by the university. On 21 December, 2006 and electronic funds transfer of \$27,750, which is the total of the three invoices of \$9,250, was paid by the University of Newcastle into the Westpac Bank account held by Management and Professional Services. Mr Killalea says that he has no knowledge of the receipt of that deposit. If it is the case that no work was done by Management and Professional Services as described in the invoices then payment of \$27,750 by the University of Newcastle on those invoices was made on a patently false basis.

30 This inquiry will also consider what became of the funds paid by the university into the Management and Professional Services bank account. The evidence shows that on 22 December, 2006, the day after the payment of \$27,750 was made to Management and Professional Services, an amount of \$7,000 was withdrawn from its Westpac Bank account at the Balmain branch. On 27 February, 2007 a further \$8,000 was withdrawn from the Management and Professional Services Westpac Bank account at the Balmain branch. As part of this inquiry it remains to be determined who made each of those withdrawals, why they were made and what became of the funds withdrawn in each instance.

40 I'll now turn to the events involving the University of Sydney. Between September 2009 and April 2011 Mr Roberts held the position of transition manager in the Information and Communication Technology section at the University of Sydney. As already mentioned, Mr Roberts was residing at Mr Killalea's house most Monday and Thursday nights through that time.

In November 2010 Mr Roberts suggested to Mr Killalea that Management and Professional Services become an accredited vendor of the University of

Sydney. A new vendor form was sent by email from Mr Roberts to Mr Killalea. Mr Killalea duly completed it with the details of Management and Professional Services including its Westpac Bank account, street address, telephone number and email address and then submitted it, placing Management and Professional Services on the University's system as a supplier. The presence of Management and Professional Services as an accredited vendor to the University of Sydney created the environment for what seems to have followed.

- 10 Nine invoices were submitted to the University of Sydney by Management and Professional Services with respective dates of 15 October, 2010 for one invoice, 22 October, 2010 for another invoice, 29 October, 2010 for two invoices, 5 November, 2010 for three invoices and 12 November, 2010 for two invoices. Each invoice was on the letterhead of Management and Professional Services, each addressed to the University of Sydney Information and Communications Technology and to the attention of Brett Roberts, each for the amount of \$4,785, each on the UOS Building Upgrades Project with the services description said to be "Civil assessment as directed" for individual parts of three different buildings at the
20 University, Building F13, Building A14 and Building A26.

The Australian business details for Management and Professional Services and the postal address are correct on the invoice. There was, however, a significant common irregularity on the invoices. The method of payment section of each invoice invites payment by either cheque or electronic transfer, funds transfer, to a specified account. The bank account details are not those of Management and Professional Services. They are for a St George bank account held in the name of Robcon Australia Pty Limited. Robcon was a company owned and controlled by Mr Roberts.

- 30 The evidence of Mr Killalea is anticipated to be that neither he nor Management and Professional Services ever did any work for the University of Sydney. It is also anticipated that Mr Killalea will give evidence that he did not create any of these invoices. This inquiry will endeavour to determine who did do so.

- 40 On 10 December, 2010 as part of one batch Mr Roberts and Mr Stephen Junor, the manager of Communication Services within the Information and Technology, Communications Technology section of the University approved all nine invoices for payment. Payment of the total amount of the nine invoices occurred on 24 January, 2011 by electronic funds transfer of \$43,065 from the University of Sydney into the St George bank account of Robcon. Mr Roberts then used the money in the Robcon account for his own purposes. Mr Roberts will be required to explain himself about these events in the course of this inquiry.

Now I'll turn to events involving Macquarie University. From July 2012 to December 2013 Mr Roberts was employed as the experience director in the

Delivery, Operations and Logistics Department at Macquarie University. As before Mr Roberts regularly stayed with Mr Killalea each Monday and Thursday nights while he worked at Macquarie University. The alleged frauds to which Macquarie University were subject during the period of Mr Roberts' employment each differed in their method but not in their essential end result. Each of these alleged frauds will now be outline, including some background matters involving another friendship of Mr Roberts which provides the context for some of the events which occurred.

10

In about October 2012 Mr Roberts told Mr Killalea that an opportunity for Management and Professional Services to do work for Macquarie University existed involving a process improvement project. Mr Roberts told Mr Killalea that Mr Roberts would collate data and performance requirements at Macquarie University which would then enable Mr Killalea to perform the work offsite.

20

It is anticipated that Mr Killalea will give evidence that he and Management and Professional Services did not perform work for Macquarie University at any time. Despite this, on 30 November, 2012, Mr Roberts requested Mr Killalea to issue an invoice from Management and Professional Services to Macquarie University for the work that Mr Roberts said he had already performed and the work that he anticipated to be performed by Management and Professional Services on the process improvement project.

30

At this point in the events Mr RH enters the story. Mr RH will appear at a witness in this inquiry. On what is known at the present time, it is not anticipated, it is anticipated that there will not be any suggestion that Mr RH has done anything wrong in his involvement in what took place.

40

Mr Roberts met and befriended Mr RH when Mr RH joined Austrapay as a trainee systems operator in about 2000 and Mr Roberts was his supervisor. Their working relationship and friendship continued when they both left Austrapay and commenced working for Unisys in 2002. Mr RH was swiftly promoted into more senior roles at Unisys and he regarded Mr Roberts as somewhat of a mentor to him as he followed his career path. Mr Killalea was also known to Mr RH.

Mr Roberts left Unisys in 2005 and sometime later, Mr RH also left to start his own company called Global Wide Trade Pty Limited. They remained in touch as friends after that time, although their contact was infrequent.

In about early December 2012 Mr Roberts contacted Mr RH and asked him for a loan. Mr Roberts was apparently broke. Mr RH agreed to loan Mr Roberts an amount of \$10,000 which arrived in the bank account of Robcon on 5 December, 2012. Two days later, on 7 December, 2012, it

seems that Mr Killalea created an invoice for Management and Professional Services which was issued to Macquarie University in the amount of \$32,450. In the circumstances the invoice is highly unusual. It is addressed to Macquarie University to the attention of Brett Roberts, Experience Director, the very person who apparently asked for it to be created, to cover work he alleged he had performed for the institution with whom he was employed and being paid a salary. The project is stated to be licensing. There is no breakdown provided for the work, instead the service description is “Licensing and maintenance of MAP Pro-Technology scoping and management module inclusive of asset assessment tool and methodology option.” While grandiose in its terms it appears to have no relevance at all to the work to be done by Management and Professional Services for the University as had apparently been suggested by Mr Roberts to Mr Killalea.

If no work of the sort outlined in the Management and Professional Services invoice was done, then the invoice was, like others before it to the other universities, a work of fiction.

20 He invoice was approved for payment within Macquarie University on 18 December, 2012. It was paid by Macquarie University in the form of an electronic funds transfer to the Westpac bank account of Management and Professional Services of \$32,450 on 21 December, 2012. Only a matter of days later, electronic funds transfers in two sets totalling \$20,000 were made out of the Management and Professional Services account. It is expected that Mr Killalea will give evidence that these transfers were made at the direction of Mr Roberts and considered by Mr Killalea as payment to Mr Roberts for the work he claimed to have done as described in the invoice.

30 The first set of these transfers was made on 27 December, 2012 being transfers out in two amounts of \$5,000 to the ANZ Bank account of Mr RH . It would appear that these transfers represented a repayment to Mr RH of the \$10,000 loan that he had made to Mr Roberts only a few weeks earlier. The reason for these transfers from Management and Professional Services to Mr RH is a subject of this inquiry.

The second set of these transfers was made on 28 December, 2012. This time the two amounts of \$5,000 were sent to the St George Bank account of Robcon. Again, the reason for these transfers is amongst the matters to which this inquiry is directed.

40 On 26 March, 2014 Mr Killalea arranged for Management and Professional Services to refund to Macquarie University the amount of \$32,450 over his concerns that it represented the receipt of funds from a fictitious invoice.

I will now detail some matters involving a company known as iPath Pty Limited. This inquiry will also hear evidence from Mr Emiel Temmerman. He is one of the owners and controllers of a company called iPath Pty

Limited. The business of iPath since 2000 is to design and build wireless local area networks, colloquially known as Wi-Fi, principally based in Sydney and Melbourne. This involves developing a specification of customers' needs, designing the network and then building the network with cabling and electronic equipment.

10 iPath has performed work for the University of Newcastle, the University of Sydney and Macquarie University in the past ten years. At all three universities Mr Temmerman has encountered Mr Roberts whilst working on Wi-Fi projects in which Mr Roberts was involved. Mr Roberts appears to have arranged for iPath to become a service provider to each of the University of Sydney and Macquarie University. The contact between Mr Roberts and Mr Temmerman has been limited to a professional relationship on those projects though.

20 Unlike the previous instances of fictitious invoices as already described, the incident involving Mr Roberts and Mr Temmerman, which will now be outlined, although still involving Management and Professional Services shows a slightly different method than that which had occurred up until that time.

30 At the end of November, 2012, a few months after iPath started working for Macquarie University, it seems that Mr Roberts came to Mr Temmerman with a quite unusual request. Would iPath issue an invoice to Macquarie University for work that Mr Roberts could assure him had been performed by Management and Professional Services on a one-off project because Management and Professional Services was not an accredited supplier to the university and therefore could not get paid at that time. Mr Temmerman, whilst not having done such a thing before, agreed to do so.

Following that conversation it appears that at the suggestion of Mr Roberts, Mr Killalea prepared a Management and Professional Services invoice dated 30 November, 2012 in the amount of \$10,450 which was addressed to iPath to the attention of Mr Temmerman on the storage consolidation project for services described as consultancy services, project scoping and delivery of storage consolidation across NAS and SAN infrastructure. According to Mr Killalea there was no such work performed by Management and Professional Services for Macquarie University and this was a false invoice.

40 The Management and Professional Services invoice did not arrive at iPath until Mr Killalea sent it by email to Mr Temmerman on 21 December, 2012. The steps by which the Management and Professional Services invoice to iPath was paid were as follows. On 9 January, 2013 Mr Temmerman sent a letter on iPath letterhead to Mr Roberts' attention at Macquarie University submitting a quotation for \$9,500 exclusive of GST for services described as Macquarie University requires project scoping and delivery of storage consolidation across NAS and SAN infrastructure. This was not the sort of work that iPath normally performed. It was a mere parroting of the services

description in the earlier Management and Professional Services invoice to iPath.

10 On 10 January, 2013, Mr Roberts then used the iPath quotation to raise a Macquarie University purchase requisition for \$10,450 inclusive of GST, which he approved along with the chief operating officer as being expenditure based on a quotation under \$30,000. Accordingly a purchase order dated 17 January, 2013 for \$10,450 was issued by Macquarie University to iPath. Mr Temmerman then arranged for iPath to prepare an invoice dated 17 January, 2013 addressed to Macquarie University in the amount of \$10,450 which was submitted and approved for payment on 24 January, 2013.

20 The payment on the invoice was made by Macquarie University to iPath's Commonwealth Bank account on 14 February, 2013. On the following date, 15 February, 2013, \$10,450 was electronically transferred from iPath's account to the Westpac Bank account of Management and Professional Services, thereby settling payment of the Management and Professional Services invoice to iPath.

Mr Killalea will also be asked to explain what became of these funds.

30 Not long after Management and Professional Services having received \$9,450 from iPath, on the 4th of March, 2013, a transfer of precisely that amount was made from Mr Killalea's Westpac property loan account to the ANZ account of Mr RH . On 7 March, 2013, at the suggestion of Mr Roberts, Mr RH then transferred \$9,450 to the St George bank account of Robcon, from which that entire amount was withdrawn the following day, 8 March, 2013.

In this inquiry each of Mr Roberts, Mr Killalea and Mr RH will be asked to address their involvement in these events, particularly as to the questions of why within the space of a few days Management and Professional Services transferred \$9,450 to Mr RH , Mr RH transferred \$9,450 to Robcon and Mr Roberts withdrew \$9,450 from Robcon's account.

40 I will now detail some matters involving some further invoices from Management and Professional Services to Macquarie University.

Another area to be covered in this inquiry is the suggestion of further fictitious invoices rendered to Macquarie University by Management and Professional Services addressed to the attention of Brett Roberts, none of which were paid. They were respectively dated 31 January, 2013, 28 February, 2013 and 29 March, 2013 and each was for the amount of \$32,450. Like the earlier invoice for \$32,450 on 7 December, 2012 which was paid in the circumstances already mentioned, the elaborate service description was the same, "Licensing and maintenance of MAP Pro-

Technology scoping and management module inclusive of asset assessment tool and methodology option.” The common feature of these invoices with the earlier invoices is that according to Mr Killalea, Management and Professional Services did not perform any of the services stated in them.

10 It is expected that Mr Killalea will say that he did not create these invoices. Establishing the identity of the person who did so will be a matter within this inquiry. Mr Killalea was contacted on 17 May, 2013 by Macquarie University about the invoices and told that he was required to provide further information before they could be processed for payment. It appears that Mr Roberts claimed that the services were performed pursuant to an agreement. It is anticipated that the evidence from Mr Killalea will be that such an agreement was then provided to him by Mr Roberts, backdated to 2 November, 2012 and signed by Mr Roberts purportedly on behalf of Macquarie University when he had no authority to do so and by Mr Killalea on behalf of Management and Professional Services.

20 On 31 May, 2013 this agreement was submitted to Macquarie University. When challenged by his superiors at Macquarie University about the work to which these invoices relate Mr Roberts provided a series of emails suggestive of real communications between Mr Killalea and Mr Roberts on the topic of the work. It is expected that Mr Killalea will confirm that, like the invoices themselves, these emails were concocted. Ultimately the three invoices for \$32,450 each were withdrawn in July 2013.

30 On September, on 5 September, 2013 Mr Roberts was suspended with pay from his employment at Macquarie University and after a misconduct investigation which included the events surrounding the submission of these three Management and Professional Services invoices, on 13 December, 2013 that employment was terminated.

Across the three days set aside for it this public inquiry will now hear evidence in turn from Christopher Killalea, RH, Emiel Temmerman and Brett Roberts. May it please the Commission.

THE COMMISSIONER: Thank you, Mr McGrath. I'll take a short adjournment.

40 **SHORT ADJOURNMENT** **[10.36am]**

THE COMMISSIONER: Yes. Any applications for leave? Yes, Mr Alexis.

MR ALEXIS: May it please the Commission I seek leave to appear for Macquarie University.

THE COMMISSIONER: Yes, Mr Alexis, that leave is granted.

MR ALEXIS: If the Commission pleases.

MR CHESHIRE: Commissioner, Cheshire, I seek leave to appear for the University of Sydney.

THE COMMISSIONER: Yes, Mr Cheshire, that leave is granted.

10 MR CHESHIRE: Thank you, Commissioner.

MR TAYLOR: Commissioner, Taylor, solicitor, I seek your authorisation to appear on behalf of Mr Temmerman.

THE COMMISSIONER: Yes, Mr Taylor, that leave is granted and - - -

MR TAYLOR: Thank you.

20 MR LEIGHTON-DALY: May it please the Commission, Leighton-Daly's my name, I seek leave to appear for Mr Brett Roberts.

THE COMMISSIONER: Thank you, Mr Leighton-Daly, that leave is granted.

MR LEIGHTON-DALY: Thank you.

THE COMMISSIONER: Yes, Mr McGrath.

30 MR McGRATH: At the outset, Commissioner, I would like to, to tender two volumes of documents, they've volumes 1 and 2 of the, of the brief. These are documents that I will be taking the witnesses through during the course of examination. There are some further documents that I anticipate tendering, they go to corruption prevention issues but for the moment I won't be. However, there were some documents which were left out of volumes 1 and 2 that I will be needing to make reference to. They have been placed at the back of volume 5 so for the purposes of, currently, I'd like to tender volume 1 and volume 2 and then I would like to tender pages 1084 through to 1094 of volume 5.

40 THE COMMISSIONER: Right.

MR McGRATH: Now in relation to the tender of those documents I would seek a declaration from the Commission under section 112 to suppress various personal information details, they would be all of the bank account details, all of the personal addresses, all of the email addresses and all the personal telephone service numbers that are referred to in the various pages in volume 1 and volume 2.

THE COMMISSIONER: Yes, thank you. All right. Volumes 1 and 2 will be Exhibit M1.

#EXHIBIT M1 - VOLUMES 1 AND 2 OF BRETT ROBERTS BRIEF

10 THE COMMISSIONER: Volume 5, pages 1084 to 1094 will be Exhibit M2.

#EXHIBIT M2 - PAGES 1084-1094 OF VOL 5 OF BRETT ROBERTS BRIEF

20 THE COMMISSIONER: I direct pursuant to section 112 of the Independent Commission Against Corruption Act that all personal identifying information contained within those exhibits is currently suppressed from publication, and by that I mean all relevant bank numbers, identifying information relating to persons including phone numbers, addressed and other information that's capable of identifying individuals.

30 **I DIRECT PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT THAT ALL PERSONAL IDENTIFYING INFORMATION CONTAINED WITHIN THOSE EXHIBITS IS CURRENTLY SUPPRESSED FROM PUBLICATION, AND BY THAT I MEAN ALL RELEVANT BANK NUMBERS, IDENTIFYING INFORMATION RELATING TO PERSONS INCLUDING PHONE NUMBERS, ADDRESSED AND OTHER INFORMATION THAT'S CAPABLE OF IDENTIFYING INDIVIDUALS**

THE COMMISSIONER: Is there any other order that you seek at this stage, Mr McGrath?

40 MR McGRATH: Yes, there are. Mr Alexis has kindly provided me with a document, if I could just hand that up to you, Commissioner. It relates to some further information for which suppression is sought.

THE COMMISSIONER: Right.

MR McGRATH: And can I indicate that I am content with all of the items save I wish to reserve a position on two of them. The first item is at page 224. There is a name of a particular employee- -

THE COMMISSIONER: Yes.

MR McGRATH: - - -referred to there against whom unsubstantiated allegations were made and I would seek to have the name of that employee at Macquarie University suppressed on page 224.

THE COMMISSIONER: Yes.

10 MR McGRATH: The name appears again at page 247.

THE COMMISSIONER: Yes.

MR McGRATH: Then there is a Telstra account number, it's probably covered already from what you've said.

THE COMMISSIONER: Yes.

20 MR McGRATH: The address, residential address is covered. There is a URL username and password information on page 312 for which a suppression order is sought. There is also the telephone details, that's probably already covered. The two items on which I wish to reserve a position relate to the procurement handbook and also the accounts payable procedures at Macquarie University. They haven't been tendered as yet but I will indicate that I'm going to reserve my position when I come to the point where I do tender those, but since they appear on the document I thought I needed to explain to you, Commissioner, that I'm not currently seeking anything in relation to those. And then finally there is a document that has been tendered at page 214 that identifies particular individual members of Macquarie University's Misconduct Investigation Committee and for which the suppression of their identity is sought.

30

THE COMMISSIONER: Yes, thank you. Well, perhaps we can have a discussion later about the procurement handbook and the accounts payable procedures, Mr Alexis, if that's suitable?

MR ALEXIS: Yes, of course, yes.

40 THE COMMISSIONER: For present purposes I'll mark the document which is under Clayton Utz letterhead and headed Macquarie University MFI 1 and non-publication orders pursuant to section 112 of the Act apply with respect to each of the categories referred to in that document on pages 224, 247, 227, 228, 234, 272, 312, 371, 357, 377 and 214 and those details are prohibited from publication, as I have already indicated.

NON-PUBLICATION ORDERS PURSUANT TO SECTION 112 OF THE ACT APPLY WITH RESPECT TO EACH OF THE CATEGORIES REFERRED TO IN THAT DOCUMENT ON PAGES

**224, 247, 227, 228, 234, 272, 312, 371, 357, 377 AND 214 AND THOSE
DETAILS ARE PROHIBITED FROM PUBLICATION, AS I HAVE
ALREADY INDICATED**

THE COMMISSIONER: Yes, Mr McGrath.

MR McGRATH: May it please the Commission. The first witness I wish to
call is Mr Christopher Killalea.

10

THE COMMISSIONER: Yes, Mr Killalea, just take a seat. Mr Killalea,
you have representation here today?

MR KILLALEA: (No Audible Reply)

THE COMMISSIONER: Do you have representation here today?

MR KILLALEA: No.

20 THE COMMISSIONER: You don't?

MR KILLALEA: No.

THE COMMISSIONER: Just take a seat. Thank you. Mr Killalea, could I
just make it clear to you that you are required to answer all questions asked
of you truthfully even if the answer to those questions might incriminate
you in a criminal offence or indeed if they might expose you to civil
proceedings. You do not have the choice of refusing to answer on the
grounds that those answers might incriminate you. However, because of
30 that compulsion you would be able to object to each and every question that
is asked of you and in that way the answers couldn't be used against you.
For more convenient purposes I can make an order under section 38 of the
Act which operates as a blanket objection to all of the answers that you give
in the course of your evidence so that you are in effect protected without
needing to make an objection to each and every question as it is asked. Do
you wish to take advantage of such an order?

MR KILLALEA: Yes, please, Commissioner.

40 THE COMMISSIONER: All right.

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 this witness during the course of the witness's evidence
at this public inquiry are to be regarded as having been given or produced
on objection and there is no need for the witness to make objection in
respect of any particular answer given or document or thing produced.

10 **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 THIS WITNESS
DURING THE COURSE OF THE WITNESS'S 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**

Mr Killalea, do you wish to be sworn or affirmed?

MR KILLALEA: Sworn please, Commissioner.

THE COMMISSIONER: All right. Can the witness be sworn please.

THE COMMISSIONER: Just take a seat. Yes, Mr McGrath.

MR McGRATH: Could you please state your full name?---Christopher Myles Killalea.

And you're 63 years old?---Correct.

10

What is your occupation?---Currently semi-retired.

And what level of school did you reach?---Um, Higher School Certificate.

And do you have any university or technical college academic qualifications at all?---Um, certifications from University of Technology Sydney and Lean Six Sigma and currently undertaking a Masters postgraduate degree at Sydney University.

20

And what is that Master's degree in?---Project management.

And do you have any other professional qualifications?---No. Oh, other than a Project Management Institute certification. That's an industry certification not academic.

Now, I realise that it's probably over quite some span of time but I'm going to try and get from you a summary of your employment history since you left school and I'll probably be -- I'll be concentrating - - -?---Yeah.

30

- - - on the period from around about the mid-1990s onwards. The sort of work that you did when you first left school what, what was that?---Ah, first left school I had a Commonwealth scholarship and attended an agricultural college certification course First two years was managing a farm, rural property then I gained my year 11 and 12 pass at evening tech college.

40

Went on to university. Um, attended um, ah, almost a complete Bachelor's degree in education. I went on to teaching for eight years. After there um, I went into the computer industry. Ah, three or four years in ah, consultancy to computer training colleges. This brought us up to about '91 when I secured a contract with BHP Port Kembla, it was a yearly contract which was renewed for several years lasting seven, seven years. Ah, when that completed I ah, took a position with a technology tier 2 company, Senteq Information Systems in North Sydney. After 18 months there I took a position as project manager at Computer Associates. That was '99. Um, I was there fulltime until 2005 ah, where I was retrenched and upon retrenchment went back into consulting and in consulting I worked in various companies in the financial services sector, outsourcing section and it was in sequential order probably Unisys Corporation initially in 2005, the end of, after I'd finished at Computer Associates. I started at Unisys

Corporation on a um, ah, drawn out project. 2006 I took a position, again being re-employed as a contractor this time with Computer Associates on a project in Melbourne. 2007 again I took a contractual role with Computer Associates till about May/June 2007. Then intermittent work as it occurred, sometimes consultancy for three to four months, small jobs, sometimes ah, longer with TAL Insurance, I believe that was 2009. Um, again TAL which is Tower rebranded, 2010/2011 and eventually 2012/13 Australian Red Cross.

10 Thank you. Now you have a company called Management and Professional Services - - -?---Correct.

- - - Pty Limited. Do you colloquially shorten the name of that to MAPS or MPS when you're referring to it?---No. Management, it's - - -

Always, you always use - I'll use the - - -?---Management and Professional - - -

20 I'll use the full name if that's, that's - - -?---No, no, here before we've referred to it as MAPS but on paper and legal documentation never MAPS because it's not a registered component.

Now you set it up in 1992 as a company called Computer Based Training Solutions Pty Limited?---Correct, yes.

And it changed its name to Management and Professional Services in 2005? ---Correct.

30 Now you are the sole director of that company?---Yes.

And you are the sole shareholder of that company?---Correct.

And you're the only employee of that company?---Correct.

Has it ever had any other employees?---Ah, not officially but unofficially ah, on occasion I had need to seek specialist technical support in relation to a Unisys project and um, it wasn't ah, an official, the documented procedure was just a requirement of that project.

40 Well, in relation to that people that you brought on for that project were they brought on as employees of the company or did you just contract their services?---Contracted their services.

Now up until about November 2008 your brother Richard had been involved in the company?---Correct.

And he was the other director and shareholder - - -?---Correct.

- - - of it until that point in time. Now can you please tell the Commission what is the core business of Management and Professional Services?---It, it has evolved over time. Initially it was fundamentally project management and project management of whatever the client's requirement was ah, be it technical or, or procedural, improvement, process improvement or, or a infrastructural enhancement. It, it gradually evolved into a position of consultancy, management consultancy, process improvement.

10 And the method by which Management and Professional Services performs those services for other companies is that you perform that work. Is that correct?---Correct.

Now, you know a person called Brett Roberts?---Correct.

When did you first meet Mr Roberts?---In April 2000.

20 And what were the circumstances in which you first met him?---I was ah, at that time full-time employed by Computer Associates as a senior project manager, having been engaged by Computer Associates in 1999, and I was deployed to a small financial services sector business in the CBD called Austrapay that had issues with a CA product and as project manager I was deployed to that client's site to resolve the issue and to ah, calm the client and reinstall the, the suite of products.

And what was, what were the circumstances in which you met Mr Roberts? ---Yes.

So you described your, what you were doing?---Yes.

30 What was he doing?---He, he was the, my counterpart. He was the project manager at Austrapay.

So did you in your work at Austrapay work closely with Mr Roberts during that time?---Yes, I reported to him and met with him and he was the major contact I had at Austrapay.

So he was in effect your client- - -?---Correct.

40 - - -for the project?---He was the client's project manager, yes.

Would you be working with each other on a day-to-day basis?---For such days that I was engaged on that site, absolutely.

Right. You would take direction and instruction from him- - -?---Correct.

- - -on, on that project?---Correct.

And how long did you work together on the project of Austrapay?---I think it was a brief project, probably, probably these things usually run six months I would say, and that's an estimate.

Now, you obviously met him in a professional context- - -?---Yes.

- - -but did you strike up a friendship with him during that time?---During that time, yes, that was the instigation of the friendship.

- 10 Yes. And the friendship, did that extend to contact between the two of you outside the working hours that you had together on that same project?
---I don't think so at that occasion, no, I think that grew in the fullness of time.

So when did you first start to develop the, more the friendship side of your relationship- - -?---Yes.

- 20 - - -than the business side of it?---Probably later in the course of events when ah, again whilst I was employed at Computer Associates Roberts approached Computer Associates to, for me to be engaged in managing a piece of work for a client of theirs, Austrapay, and Computer Associates was quite keen to achieve a successful outcome. I was deployed to it. It was only an initial 10-day engagement, it was successful, Computer Associates formed a relationship then with Unisys and from that point on Roberts ah, used my services on a quite regular basis.

And was it that point in time in which you were having a friendship developing with him?---That would be the case.

- 30 So what year would you say that the friendship part of the relationship developed as opposed to just really being a professional one?---Yes.

Since you said you first met him in April 2000?---Yes. This was probably 2002 or 2003.

Now- - -?---Probably 2002.

When Mr Roberts was working at Austrapay- - -?---Yes.

- 40 - - -where was his home located?---I, I don't really know. I didn't know him that well outside the successful business arrangement.

So when you started to develop a friendship with him in 2002 were you aware of where he lived?---Somewhere around that time I recall conversations about house hunting and I assume ah, it was a round that time, 2002/2003, that he moved to Newcastle residence.

And do you, were you having professional contact with him when he was commuting from Newcastle to Sydney for his work?---I'm not too sure, as I said, when he actually moved to Newcastle, I'd say it was 2002/2003, and by virtue of the fact that I was working for him on most occasions when engaged at Unisys Corporation, up till 2005 when I department Computer Associates, I would have continually been in communication with him.

10 Yes. And you became aware, did you, that he was commuting from Newcastle to Sydney for his work during that period?---Not particularly, no, I don't recall.

You came to know that he had a wife and children?---Yes.

Yes. Did you meet them?---Yes, yes.

And what were the circumstances in which you came to meet them?
---A long time ago um, probably on an occasion where the family had some event on a weekend to attend in Sydney and stayed at my place.

20 And did you ever go up to his home in Newcastle?---Yes, yes, and ah, on occasion I was invited up for a weekend or in one case um, as the preamble suggested, a Christmas dinner.

So it would be the -- can you recall when abouts it was that you went to spend Christmas Day?---No, no.

It would be the case that you obviously had developed a very close friendship- - -?---Yes.

30 - - -if that was the nature of the relationship that you had?---Correct, correct.

Now, in your judgement, what abilities professionally did Mr Roberts possess?---Intelligence um, leadership, he ah, certainly had industry knowledge, respect, immense networking, and as a contractor that something you notice very quickly when somebody has a good network, it's usually an indication that that client is well-established, well-respected, and in my view he was certainly intelligent, well-respected, knowledgeable and trustworthy.

40 And what personal qualities attracted you to become friends with him?
---He was a little blunt, like I am at times, didn't tolerate fools.

Now, Mr Roberts left Austrapay and went over to start working at Unisys when the business was taken over. Do you recall that?---Correct.

Yes. Now, what was Mr Roberts' position when he was working at Unisys from- - -?---I don't know initially what the arrangement was but when I was

informed that there was an opportunity for CA to be working at Unisys he was data centre manager in Wicks Road I recall.

And across the projects in which you were working at Unisys- -?---Yes.

- - -were you again working at, under him, on his instruction and direction?
---As, as the client representative, absolutely.

10 So you went from doing that sort of work at Austrapay into doing that sort of work at Unisys where he was the principal primary contact for you?
---Absolutely identical arrangement. He was the single point of contact.

And your friendship was developing through that period as well as the professional contact was?---Yes, yeah, all projects were successful and when you're a contractor, you've got a successful project, you've got a happy client.

20 Now, as you said, you left Computer Associates, that was in about May of 2005?---2005.

Yes. And was that when you became an independent contractor?---Correct, correct.

And you were offering your services to other companies- -?---Correct.

- - -through Management and Professional Services?---Correct.

Is that the case?---Correct.

30 And Mr Roberts was continuing to work at Unisys- -?---Yes.

- - -after you had left there. Now, did you work as a contractor for Unisys through Management and Professional Services?---Yes.

40 And what were you doing for Unisys when you were working for Management and Professional Services?---Shortly after my retrenchment from Computer Associates ah, I was engaged by Roberts ah, ah, as governance project manager or project manager on a, what appeared to be at the time a rather straightforward project at Unisys Corporation which was to um, upgrade infrastructure on the domestic terminals throughout Australia for a client.

I see. Now, do you recall an occasion whilst Mr Roberts was at Unisys in which he came to you and asked you whether you would loan him money?--
-Yes.

When bouts was that occasion?---Shortly after I started so if I commenced in June, July, 2005 it would have been within a month or two after that.

So you would place it about August of 2005, about then?---Probably slightly earlier.

Now - - -?---July – yes, it would be August, yes.

Can you remember how much money he asked you to loan him?---Yes. It was around a figure of ah, \$10,500.

10 You had a conversation with him in which he asked you for this, this loan?
---Yes. And incidentally, I'd actually forgotten the, the figure of the loan.
It was only when I was able to verify how much had been refunded by
Unisys that I knew the figure.

Well, we'll get to, we'll get to that in a moment. I just want to concentrate at the moment on the detail of him asking you for the loan?---Yes.

He spoke to you and asked you for the loan. What did he say to you?
---There was some issue with his credit card, corporate credit card. Ah, in
20 fact he said that he was embarrassed that it had maxed out. He'd had a
piece of equipment that was due to be paid for within the fortnight, by
Friday week and could I assist by loaning him the funds.

And this was a piece of equipment that needed to be acquired - - -?---For Unisys.

- - - for Unisys?---Some – I inquired as to what the equipment was and from
memory it was something to do with a lift, a rack or a crane, something to
30 lift a rack.

Now, you understand Unisys to be a significant sized corporation don't
you?---Yes. Yes.

You don't consider them to be a company that would be short of funds?
---No. It wasn't Unisys that was short of funds.

Yeah. So didn't you – did this strike you as an unusual request - - -?
---Correct.

40 - - - for him to be making of you?---Yes. Yes.

That you would imagine if he needed to buy some equipment for Unisys
that it would be Unisys who would be paying for that?---Yes, I do - - -

And it would, and it was quite unusual for him to be saying he had maxed
out his corporate credit card and could you assist him in financing the
equipment to be purchased for Unisys?---Yes, that is true. That's quite
unusual.

Now, did you agree to give him that loan?---I agreed.

You realised at that point that it was an unusual request that he had made?
---Yes, it was definitely unusual.

Why did you agree to give him that loan in those circumstances?---Because if it was failed to be repaid I could tell quite simply at the cost of \$10,500 that it was a failed friendship.

10

So you agreed to give him this loan despite the fact that you understood that the benefit of the loan was really for Unisys?---Yes.

Who did you imagine was going to repay the loan?---Unisys if it was for Unisys.

Did you speak to anyone at Unisys as to the - - -?---I had no cause.

Now, you gave him that loan. You provided him that money?---I paid, I
20 paid the ah, electronic funds transfers to the service – to the nominated account and in my bank account I'd actually indicated the payments as Unisys payments one through to four.

Now, did you give him any cash when you gave him this loan?---Yes.

How much of the \$10,500 did you give him in cash?---At the time I – recently I'm trying to call, I couldn't recall, but looking at the difference between the electronic funds transfer and um, the repayment it was \$2,500.

30 And did you do anything to verify for yourself that the cash that you gave him was spent on the equipment that Unisys required?---At this time I had no ah, inkling, no hint, no cause to doubt Mr Roberts's word. In fact his word was very much part of the relationship. I trusted him. If he said that was for the deposit – it made sense if something had to be paid by Friday week and there was a deposit involved, to me seemed logical.

Is the answer to my question that you didn't do anything to verify that the money that he was being given in cash - - -?---No.

40 - - - was actually spent on the Unisys equipment?---No.

And he gave you the name of a supplier for that equipment to whom you should make the transfer of the balance of the funds?---He – the name was supplied with the – the name was actually – I had my doubts. You just don't throw away \$10,500 so when I paid the electronic funds transfer I kept my bank records of the transaction and in those bank records the transaction disclosed who the account name was and BSB number and account number. I kept those records.

Did you do anything to verify for yourself that the amount that was being transferred was going to someone who was to be providing that equipment to Unisys?---No, I took it at face value for what it stated.

Did you think it was odd that you were paying cash amounts to Mr Roberts in respect of this transaction?---It was odd that I was being asked to help out under these circumstances. It, it didn't strike me as odd in the, in the breakdown of the payment, no.

10

And did you ever do anything to satisfy yourself that the computer equipment had actually been bought?---Ah, I didn't have to, in turn, in time, ah probably two to three months later Unisys Corporation after Roberts had departed reimbursed me so I took that at face value that - - -

No, just concentrating on my question for a moment - - -?---Other than that, no.

- - - did you do anything - - -?---No.

20

- - - to verify that the computer equipment was bought?---Have no doubt.

Now the amount of money was in fact as you say repaid to Management and Professional Services?---Correct.

And can – your, your records show when that was repaid?---Correct.

Can you recall when that was?---Three or four months after I'd loaned it.

30

And you say it was repaid by Unisys?---It was in a ah, remittance advice note email that I received from Unisys the funds.

Now did the funds just appear out of the blue or did you have a conversation with someone at Unisys before the - - -?---No, they were included in a remittance advice totalling about 41, \$42,000 of several other invoices that I had submitted, there was a remittance advice for those funds.

Had you spoken to anyone at Unisys - - -?---No.

40

- - - at all about the whole subject of a loan that you had made to Mr Roberts?---No.

And did you speak at all to Mr Roberts from the point in time in which you gave him the loan until it was repaid, did you speak to him at all about when it would be repaid?---Yes, absolutely, particularly of note was in the interim he was retrenched from Unisys.

Did that cause you concern as to whether - - -?---Yes.

- - - you would be repaid that amount of money?---Yes.

Did you understand Mr Roberts to be short of any funds?---No.

Where did Mr Roberts go to work after he left Unisys, can you recall, can you recall where that was?---Not off the top of my head.

10 Having heard that he would be, he was retrenched from Unisys you became concerned as to whether you would see the money that you'd loaned him?
---Yes, and I did discuss that with him on a phone call.

What was the, tell me about that discussion, what did you say to him?
---It's 2007, sir.

Just the, just the, just the effect, sorry, of what, of what you said to him?
---Ah, my concern was that if he was retrenched what was happening with the reimbursement of the funds and he assured me that it was with Unisys.

20 So he assured you that Unisys would in fact be repaying you, not him?
---There was never doubt, it was, it was never discussed otherwise.

Did you regard your loan having been made to Mr Roberts or to Unisys?
---My loan was to Mr Roberts on his, in his role of purchasing a piece of equipment for Unisys.

30 So if he had, if Unisys had failed to repay you would you have looked to them for repayment or to him?---I probably wouldn't have looked at either, I just would have written Mr Roberts off.

Why would you have been prepared to, to do that at that point of your relationship?---Well, it's been, relationships as you're fully aware are built on trust and if he said that this was something for Unisys and it didn't, and I wasn't reimbursed by Unisys then it was apparent that something wasn't correct, something was amiss.

40 Now as you've said Mr Roberts left Unisys and you recall he went to work at the University of Newcastle, do you recall him going to work there?---
Yes, ah, at some stage he contacted me in I think it was 2006 to um, supply my corporate details ah, for ah, being um, deemed a recognised service provider.

We'll come to that in a moment?---Right.

Were you in contact with Mr Roberts in any capacity in between the time that he left Unisys and when he took his job at the University of Newcastle?---I don't think, I don't think so.

So there was no contact between you at all?---There was rarely contact when he wasn't working in Sydney, so I can assume that if he wasn't working in Sydney he had no cause to be at my premises and - - -

Now, why was that, was that because he would sort of drop out of sight from your- - -?---Yes.

- - -your life?---Yes.

10 And did you attempt to contact him at all just to- - -?---Had no need.

So it really was a friendship which was bound up in your work. Is that, is that really the case?---Yes, yes.

So can you recall the position that he held at Newcastle University, did he, did he ring you and say, I've got this new position, and tell you what it was? ---No. Um, when he did contact me it was um, would I forward through my details, corporate details for, for classification as a service provider. There was no looking back over that time.

20

All right?---I don't recall any.

So when abouts did he contact you about the possibility of doing some work at the University of Newcastle?---I think in 2006.

Was that the beginning of 2006?---I think so, because I have a vague recollection I sent through a response to a tender proposal in early 2006.

30 Now, what did he say to you, to the best you can recall, the effect of what he said to you when he I assume telephoned you to say this opportunity existed?---(No Audible Reply)

What, what, can you recall the effect of what he said to you?---I can't. And, and as I said, I can't recall whether it was a telephone conversation or an occasion when he was visiting or in Sydney, I just can't recall.

40 Now, did you receive some form of introduction to other people at the University of Newcastle?---The only time I ever met anybody else at Newcastle University, and again you'll probably ask this question in a little while, was his immediate superior when I presented a presentation to a piece of work that I'd put in a proposal.

Now, can you recall whether it was Mr Roberts who invited you to attend to give that presentation?---Ah, I can't.

So it could have been either him or someone else at the University? ---Correct.

Now, you were – does the name Peter Nikolettatos ring any bells with you?
---He was the gentleman that I was referring to.

That's the man that you went up and made a presentation to?---Correct.

Yes. Now, did anything come of the introduction to Mr Nikolettatos other than the offer to make the presentation?---The time when I met this gentleman was when I was presenting the presentation and he and Mr Roberts were both present in the room when I presented my um, proposal.
10 This was before lunch, and some stage there after the presentation I was asked if I could come back after lunch and attend a subsequent presentation.

And what were you actually presenting on, what was the sort of work that you were going to- -?---Yes. The proposal was for a project management deployment, processes, procedures for um, a project management office for their IT department.

And is that the sort of work that you would do through Management and Professional Services?---That's, that's my core piece of work.
20

Right. And can you give us an approximate time when you went to the University of Newcastle and made that presentation?---Perhaps the first quarter of 2006.

Right. Now, you've described what happened before lunch, now, what happened after lunch on the- -?---Oh, I, I, after lunch I was just invited back for an hour or so to sit in on another company's presentation and that was, that company was actually the successful company.

30 Now, were, did you know at the point at which you were listening in to that presentation of the other company that you had not been successful- -?
---Yes.

- - -in making- -?---Oh, I, I believed so, yes.

So you were aware that you wouldn't be the person selected but you were being invited- -?---Yes.

- - -to consider another company's presentation to do the exact same work?
40 ---Yes.

Now, was it Mr Nikolettatos or Mr Roberts who asked you to do that?
---I couldn't recall. I, I believe they were both present at that time, as they were during the ah, presentation.

Did it strike you as unusual that you were being asked- -?---A lot of this didn't strike me as unusual at the time.

I'm sorry?---No.

No, it did not. Is it the sort of thing that you've done before on other projects?---Sit in on a competitor's presentation? No.

In circumstances where you'd already found out you weren't going to be the one doing the work?---I've never presented for another proposal before so the answer again is no.

10 Did you get any form of payment at all from the University?---No.

Did Management and Professional Services get paid anything- - -?---No.

- - -for that day? Has Management and Professional Services ever done any work for the University of Newcastle?---No.

Have you ever done any work- - -?---No.

20 - - -for the University of Newcastle. Have you or Management and Professional Services ever had any involvement, other than that single day of that presentation, with the University of Newcastle?---No.

Now, can you recall where it was that you were working in September and October of 2006?---(No Audible Reply)

So we're talking about the second half of the year in which you said that you made the presentation. Now, I'd like you – before you refer to- - -? ---Yeah.

30 - - -any document I'd just like to find out from you whether you can recall where you were working?---Okay.

I don't want you to refer to any other document?---No, I understand, I understand.

I will tell – if I need you to look at a document I will take you to it? ---Yeah, okay. So September?

40 October of 2006?---2006 from January to October/early November I was engaged by Computer Associates as a program director on a project in Melbourne and I resided in Melbourne for that period of time.

Now, did you reside full-time in Melbourne so that you were there all weekdays and weekends or- - -?---I did initially for the first six months from January 2006 till July 2006. I know the first time I ever returned to my home it was after being away for six months. Thereafter I was able to return from Melbourne to Sydney on occasion, perhaps once a month or so, but I didn't return full-time until early November, if I recall correctly.

And the occasions on which you were, you were coming back about once a month, were they weekend occasions?---Weekend occasions, and sometimes it wasn't actually to Sydney, it was to my elderly father in the country.

Your elderly father, did you say?---Mmm, yes.

10 Now, I would like to show you a number of documents. They appear at pages 41, 42 and 43. I'll go through each of them in order?---Yes.

The document will appear on the screen in front of you, so if you could just look at the first document that comes up before you. Now, if you need at all for the document to be enhanced in size, please let me know, but if you're able to read that document- - -?---No, that's, that's fine.

20 Now, you'll see that that is a tax invoice and it has the words, "Management and Professional Services Pty Limited" on it, and you'll see the date and other details there. Now, I will – if you've finished looking at that I just want you to take it in generally, I'd like you to look at page 42. You'll see it's another tax invoice, and if you could just look at the details again generally there?---Yeah.

And then page 43?---Yes.

Now, did you create those invoices?---No.

30 Do you know who did?---No. I have suspicions but this is a court of law and the answer is no.

Now, you'll see if we – we'll just concentrate on one. I can tell you that they are all in exactly the same terms- - -?---Yes.

- - -save for the invoice number and the invoice date, otherwise they're the same amounts, they're addressed in the same way, and the payment details are also the same. Now, you'll see that they're addressed to the University of Newcastle, attention Brett Roberts, on the Network Active Equipment Project?---Yes.

40 Do you know what that project was?---No.

Now, you'll see the postal address there of Management and Professional Services?---Actually, thanks.

Yes, down the, down the bottom of the page there's a postal address. Is that the postal address of Management - - -?---At that time, yes, that was my postal address, I had a post office box in Rozelle.

Now you'll see an email address there?---Ah hmm.

Is that the email address of Management and Professional Services?

---It goes by two, either my personal one or maps@au but it's either Killalea or maps@au.

And you'll see a telephone number that's on there and is that - - -?---Yes, at that time - - -

10 - - - the telephone number of Management and Professional Services?---At that time, yes, correct.

Now you'll see on the right-hand side under "Method of payment" there is bank account details, are they the correct details of the bank account that was held by Management and Professional Services?---Yes, they are.

Now is that format of that invoice, is that similar to the template that Management and Professional Services used at that time?---It, it appears very close but this, sir, has been produced from a Microsoft Word
20 document, my invoices are produced on my professional invoicing system. The subtle difference is, and will become obvious, is that I don't have things like GST as a separate item, GST is formulated in the, in the calculations of my invoicing system and appears as an integral component of my cost establishment. The, the nature of my invoices are one date, one line. Ah, the field that I enter my service descriptions in is only a small field too and my usual entry is professional services or consultancy services, no more.

Are there any other aspects of those invoices which indicate to you that it is not in a form that Management and Professional Services Pty Limited use
30 for its invoices?---If it wasn't me looking at it it would be comparable to my systems invoice.

I see. Now you'll see there that it says for the, the consultancy and professional services line it says quantity five and there is an amount there of \$8,325 on that line, do you see that line there?---Yes, sir.

Now, if you divide \$8,325 by five you'll get to \$1,665, just take it from me?
---Right.

40 Now is an amount of \$1,665 a daily rate that would have been charged by Management and Professional Services for its consultancy services at that time?---No, I usually – maximum I have charged in these days, at that, at that time was \$1,500.

And that - - -?---Pre GST.

I see?---Normally however it was 1,000 but at this particular time 1,500, it did decrease to 1,000.

Now I've shown you these invoices. When was the first time that you saw these invoices?---At a previous hearing.

A previous hearing before the Commission?---At compulsory examination - - -

You don't need to - - -?--- - - - 17 December - - -

10 I see?--- - - - last year.

And prior to that point you had never known of the existence of these invoices?---It was somewhat of a surprise, trust me.

And what do you say in response to the suggestion that Management and Professional Services through you did in fact supply consulting and professional services to the University of Newcastle, what do you say to, to - - -?---If I understand your question, sir, you're asking me did Management and Professional Services provide services?

20

Well, I've, I've asked you - - -?---The answer is no.

The answer is no. What would you say to the suggestion that you did?---I am Management and Professional Services, I ought to know, sir, what services were provided. The answer is none.

30 And what would you say in response to a suggestion that Mr Roberts came to you with a proposal that you help out in sourcing labour to audit many of the buildings at the University of Newcastle and that you responded that you weren't interested?---Mr Roberts never approached me in this matter at all, sir.

And what would you say in response to a suggestion that Management and Professional Services did actually perform that audit work by engaging students and contractors to do the work, managing them and paying them in cash?---Ludicrous, no, sir.

40 Now I'd like to now take you to another document, this one is number, page number 44, it'll come up again before you on the screen and this will be the first page of a Westpac bank statement, and you see that document?---Yeah.

And you see that's addressed to you?---Yes.

And it's on an account name of yours trading as Management and Professional Services Pty Limited?---Correct.

And you'll see the date range there is for a period from 22 November, 2006 to 22 January, 2007?---Right, yes.

Now we'll turn to page 46 of that statement, that'll come up before you, there's a highlighted item there, you'll see the entry for 21 December, 2006 and there's a deposit in that account from the University of, of NCLE and it's a deposit of \$27,750. Do you know what that deposit was for into your account?---No, sir.

10 When did you first become aware that a deposit of that amount had been placed into that account?---Prior to Christmas, sir, the second compulsory examination, 17 December.

But, Mr Killalea, that is a significant amount of money - - -?---Correct.

- - - going into your bank account?---Correct.

Did you have a practice of looking at the balance of your bank account at that time?---I don't have a practice of looking at my bank account regularly at all, sir.

20 Did you receive statements regularly from the bank on this account?---Yes, yes.

Do you have a practice of looking at those statements to see what's in there in the account?---Not particularly.

Well, not particularly, does that mean that you do occasionally do that?
---Yes, yes.

30 Do you recall an occasion in which you looked at this particular account and thought hello - - -?---Not this particular - - -

- - - there's \$27,750 in my account?---Ah, I normally have an indication that a payment's been made when I receive either a, a tax advice, a payment referral or a purchase order, sir, and I'll follow up in due course, I, I would imagine, I can't recall back to 2006/2007 exactly I was waiting for funds to be paid into my account, in which case I would have been looking at my account but I certainly had no cause to look at the internet bank transactions, sir, and on receipt of the paper quarterly transaction no doubt I'd just file it and look at it later.

40 So was that your practice, to file it at the time it's received and then look at it some period later - - -?---For tax, for, for tax auditing purposes.

And no other reason at all for you to go back and have a look - - -?---No.

- - - to see whether the transactions there are ones that you've engaged in?
---I have since learnt the virtue of that as a practice ah, but at the time, no.

What about going to automatic teller machines, do you have a practice and a practice at that time of going to an automatic teller machine and seeing the balance of your account displayed on the screen?---Not when I knew it was satisfactory.

What about having a receipt issued by the machine to indicate a balance to you?---Probably wouldn't have even done it for paper trail.

10 You wouldn't have even done it for a paper trail?---Not for a \$500 withdrawal.

Right. So when you, you do in fact go to automatic teller machines - - -?
---Yes, yes.

- - - and make withdrawals, when you do that you just take the cash and leave without - - -?---These days when I don't have a great deal of funds in my account ah, I look at, I request to have the transaction balance displayed on screen.

20 But you didn't have such a practice at this time?---No.

What do you say to the suggestion that it's absolutely extraordinary that you wouldn't notice a - - -?---I'd agree.

- - - a receipt into your account of \$27,750?---I agree, absolutely.

30 THE COMMISSIONER: Mr Killalea, can I just ask you, just above the highlighted amount there's a deposit which looks like rent payment through a real estate agency, do you see that on 20 December?---No, they, as I, as I stated, Commissioner, at, at regular intervals as suggested I did not look at my bank statements.

Well, that's not the question?---Right.

Did you, did you have a property somewhere that you were leasing out?
---Through an agency, correct.

40 Right. And so that rent payment would come in on a - - -?---On a monthly basis.

- - - monthly basis?---Monthly basis.

Did you ever check the accounts to make sure that the rent was being paid?--Ah, when I'd be doing my quarterly tax balances yes, Commissioner, I would have as - - -

When you say quarterly, was that in the beginning of the year and then - - -?
?---Ah, it'd be end of quarter for, for income received um - - -

The end of quarter being what?---Ah, end of March, end of June, September, so forth. And when I, I had a little spreadsheet that I had constructed for tax purposes and um, usually by the nature of the rental agency's payments it'd be normally four per – sorry, three per quarter. Sometimes one would roll over into the next quarter but I didn't actually go back to the bank statements because there was always – on average it would out at three a quarter.

10 But when you say you would prepare quarterly returns - - -?--- No, not quarterly returns.

- - - quarterly - - -?---Just, just a balance of my bank account or, or a record keeping as I progressed - - -

Right. And you did that on a quarterly basis?---As I progressed quarterly through the financial year and at the end of the financial year, Commissioner, I would be submitting those figures to my accountant.

20 But in terms of doing that quarterly review of your bank statements, wouldn't you have done one at the end of December of that year?---Um, I dare say, yes, absolutely.

So wouldn't the amount of 27,750 - - -?---Actually - - -

- - - have stood out in that quarterly review?---I, I had that same query myself, Commissioner, and I went through my tax records and no, I don't have the – I, I would have preferred to have seen the \$27,000 listed there. That would have given me proof that I did know it was there but it's not in
30 my tax records. So for some astonishing reason I did not pick it up.

MR McGRATH: Well, we can do this if you like but I'll just tell you this, if we go through the whole of that quarterly statement we will only find about a handful of deposits into your account. There is the real estate rent payment - - -?---Ah hmm.

- - - which comes in twice during that quarter. There is an amount of interest from Wizard Management. I imagine that's an investment of yours. It's \$1,500-odd that came into your account. There's interest that the bank
40 paid on the account itself. And otherwise the only other deposit in the account through the whole of that quarter - - -?---I think was 3,500 - - -

- - - is \$27,750 - - -?---Right.

- - - from the University of Newcastle?---Right.

It would have stood out to you, wouldn't it, on any review of that bank statement at the end of that quarter that you had received that money?---As I

said, sir, when I did my reconciliation for that period of time I did not pick up the \$27,000 deposit.

When would you have done that reconciliation, Mr Killalea?---Definitely for the end of the financial year.

Not quarterly?---I would have assumed that they'd be quarterly totals but the actual submission of the data was the end of the financial year.

10 Now, I'd like you then to look at the entry immediately below?---Yes. Yeah.

On the 22 December there is a withdrawal from the Balmain branch of \$7,000?---Yes.

Now, who made that withdrawal?---I did.

20 You actually can recall making the withdrawal?---I, I actually can't recall making the withdrawal but I know the purpose of the withdrawal.

Now, why do you say you made a withdrawal of \$7,000 the day after the deposit into your account?---Well, first of all, I wasn't aware of the deposit. Secondly, the withdrawal on that date was for payment of services performed by Roberts. It was in fact a payment to Roberts.

30 Now, I want to take you back to your explanation in relation to that by reference to another document which is at page 14 of the exhibit. Now, you will see here a document which is entitled "ICAC Statement" and it is a document which runs for three pages. It goes to page 16?---Ah hmm.

And on page 16 there appears a date and a signature?---Correct.

Now, is that your signature?---Correct.

Is this a document that you prepared?---Correct.

And it was prepared and signed by you on 30 January, 2015?---Correct.

40 There have been earlier versions - - -?---Correct.

- - - of this document that you have prepared?---Yes, draft versions.

And I'd just like - - -?---One previous that I'd submitted.

I'd just like to take you to those. If we can go back to page 12. Here is a further version of the same document, an ICAC statement. This one runs only for just over a page and a half where again, is that your signature? ---Yes. Yes.

And you finalised and signed that on 23 October, 2014?---That's when I submitted it, yes.

And there is another version of this statement – I'm sorry, I apologise. I should have taken you back to page 11 at the start of that. So page 11, 12 and 13. So it's a document of two and a half pages?---Right.

10 My apologies. And then if we go back to page 8 there is a document there entitled "Draft Statement" dated Friday, 22 November, 2013 and this runs from page 8 through to page 10 but it's not signed - - -?---No.

- - - by you?---No.

Is this a document that you prepared?---Yes, this would have been a draft that I was writing.

But the draft there is dated almost a year earlier?---Correct.

20 22 November, 2013?---Correct.

And in each case these documents have been prepared by you - - -?
---Correct.

- - - and signed by you?---Ah - - -

Sorry. Except in the case of the first one?---This one.

30 Yes?---This one is just a draft.

Now, I want to take you to the document I first show you, the one that's at page 14 and on page 14 towards the bottom of the page you have set out there in a paragraph that commences "The following statement", so if we keep running down the page you'll see there it says "The following statement in response to a request for an explanation of cash withdrawals"?
---Yes.

Do you see that?---Yes, sir.

40 Now, you say there on the indented paragraph, on 22 December, 2006 \$7,000 was withdrawn for the purpose of paying Roberts \$7,000 for seven days' technical services work performed - - -?---Correct.

- - - on behalf of Management and Professional Services and you say it was on the Unisys BARA and Qantas projects - - -?---Yes.

- - - as substantiated by emails and invoice records. Now, you have then referred to those email and invoice records which you have also supplied to

the Commission which you say substantiates that Mr Roberts in fact did work on those projects for Management and Professional Services?---Yes, sir.

Now, I can take you to those emails and invoices if you wish to see them but I just want to ask you a couple of questions please. Mr Roberts was retrenched from Unisys. Do you recall that?---Correct.

10 Now, he had been working on a project there, yes?---Several I daresay, yes.

Yes. And he was working on a project in which you were involved as well?---Correct.

Was that the case?---Correct.

Now, when he was retrenched it was also at the same point in time when Mr RH , you know a Mr RH , went on holidays?---Correct.

20 You recall that. That left you short of personnel on the project?---I think there was a vacuum at the left of senior technical people at one stage, yes.

And by arrangement between yourself, Mr Roberts and Unisys - - -?---Yes.

- - - Mr Roberts was re-engaged on the project except this time working through Management and Professional Services as a contractor. Is that right?---Correct. Correct, sir.

30 Now, all of that was occurring in August, September and October of 2005?--Correct.

The emails that you've provided to us indicate that that's when the arrangement was put in place at Unisys?---Correct.

And Mr Roberts did the work and he actually did work for you across that project for Management and Professional Services?---Correct.

Can you – it's the case isn't it that you then invoiced Unisys for the work that was done- - -?---Yes, sir.

40 - - -by Mr Roberts?---Yes.

And Unisys paid you those invoices?---Correct.

When did Unisys pay those invoices to you?---Ah, it would have been um, probably October ah, August, September, October 2005.

Now- - -?---Shortly thereafter.

They paid you for invoices that you had presented to them for work that had been done by Mr Roberts?---Correct.

Why did you pay Mr Roberts at the point in time in which you received funds from Unisys that covered the work that he had done on the project?
---Ah, I have no answer for that, other than to say the work was still ongoing and I wasn't immediately in contact with – in fact he hadn't contacted me and I hadn't contacted him in relation to that matter.

10 But this was a gentleman who has been retrenched, who was working on a project under your- - -?---Mmm.

- - -company's guise?---Mmm.

Now, you say to the Commission that you paid him \$7,000 in cash in December 2006, more than a year after he had performed the work for Management and Professional Services. Is that your explanation, Mr Killalea?---That's, yes, that's correct.

20 At no point in time between the time that Mr Roberts completed the work, effectively for your company- - -?---Correct.

- - -did you offer him payment- - -?---No.

- - -of that money?---No.

For a man that you knew not to be working?---I don't know whether he was not working, sir, but- - -

30 Well, you knew he was working for you, didn't you?---At that time, yes.

He wasn't working for anyone else on that project, he was working for you?
---It was spread over, seven days over several months, the project was still ongoing, there was, in reality there was still opportunity for further engagement, however you are correct, it was a considerable period of time between when Mr Roberts ah, performed his last piece of work for me, in fact it was 12 months from when Mr Roberts performed his last piece of work for me and when I actually paid him.

40 And not only that, you had received money from Unisys to effectively pay him?---Yes.

And you kept it for yourself. Is that, is that what you've done, you kept money from Unisys- - -?---Well, if you want to put words into my mouth, I certainly did, yes, I had not paid him.

Unisys had paid you for the work that Mr Roberts had done, hadn't they?
---I think we've established that.

Yes. And you don't pay him at all?---As I said, no.

It's, it's, you – do you understand it to be unbelievable that you would take
- - -?---Well- - -

- - -more than 12 months to pay a man who was out of work for the work
that he had done for you?---I don't know whether he was out of work, sir,
and yes, it was 12 months, probably close to that time.

10

And isn't it extraordinary that you would pay him that money in cash?
---Yes, that aspect is.

Is there something that you are trying to hide from this Commission about
the payment of \$7,000 to Mr Roberts on 22 December, 2006?---No, quite
the opposite, I thought I made it quite clear that I had paid him \$7,000 on
that date.

20

But did you pay him for some other reason?---I made it quite clear that I
paid him \$7,000 for the work he'd performed.

Well, let's go to the conversation you had with him. You handed over the
cash to him, did you?---Correct.

Where did you hand over the cash to him?---In Balmain, here.

So he came to the bank with you, did he, when you took the \$7,000 out
- - -?---I can't- - -

30

- - -and you handed it straight to him?---I can't recall, sir, but I know that
um, I did, I did pay him the seven- - -

What did you say to him- - -?---I have no- - -

- - -when you handed- - -?---Oh, yes, I do.

- - -the \$7,000 to him?---Yes, I do, ironically. I told him it was the easiest
\$7,000 he'd ever earn in his life.

40

The easiest?---Yes.

He had been waiting- - -?---Well- - -

- - -for nearly 14 months- - -?---I- - -

- - -to be paid for work that he'd done for you and which- - -?---That wasn't
conveyed to- - -

- - -you had been paid?---That wasn't conveyed to me.

THE COMMISSIONER: Mr Killalea, can I just ask you, you said that, you said that the project that Mr Roberts worked on was an ongoing one and that there was opportunity for further work, but Unisys paid the invoices in September/October 2005 so at least at that stage Unisys must have drawn a line under that work. Is that right?---Um, the, the project, the project was, Commissioner, the project drew on to January 2008, in fact for the last 12 months I had notified Unisys Corporation, the project director when he
10 approached me to do another little piece of the work from 2007 January to 2008 that I'd perform that piece of work for him for free um- - -

But we're talking about the work that Mr Roberts did?---Yes. The work that, Commissioner, that Mr Roberts did um, it, it certainly ceased towards the end of 2005, I don't think it continued into 2006, his, his, his component.

Right. So, well, that brings me to this question. Given that there had been some 12 to 14 months since he'd performed the work, what prompted you to
20 pay the \$7,000 on 22 December, why that date?---Ah, um, yes, Commissioner, good question. I can only assume that it was the fact that I was absent, absent from Sydney from January 2006 literally through to early November 2006 on a regular basis um, the project itself was still going, I certainly hadn't need to use Roberts for the last 12 months, who, well, obviously he would have asked for the money. Um, how that request was made I do not know. It's, it's interesting to note that it's the date after the deposit that I made the withdrawal.

Well, I mean you have made electronic funds transfers from your account
30 for other purposes, why couldn't you just have organised to pay Mr Roberts that way?---I don't know. I can only assume that he requested it was cash, but I know I took the um, I know I failed to deduct – sorry, I know I failed to deduct GST and ah, income tax on it and I ended up paying that myself, but I, I can't recall the nature of the request as to why it had to be that day or how that occurred. I know it cost me GST and- - -

MR McGRATH: Why was the amount \$7,000?---Ah, it was seven days' work.

40 At \$1,000 a day?---Correct.

Is that the calculation?---Yes.

Did Mr Roberts ever give you an invoice for the work that he'd done?
---No, no, sir.

Had he been pressing you for payment at any point in time- - -?---No.

--up until the time that you handed the cash to him?---No, no. In fact he probably would have only need to mention it once, either in person or a telephone call, and I would have paid him.

So is your evidence, just so I completely understand it, that at no occasion between October of 2005 when you earlier said that he'd finished the work on the Unisys project, and until 22 December, 2006 did he ever ask you to pay him- -?---No. To my knowledge.

10 --for the work that he had done?---To my knowledge, sir, never.

And it wasn't burning on your conscience that you needed to pay him for that work?---No, no.

Because I can take you to it, before the \$27,750 was deposited into your account, you had a balance in that account of \$168,903?---Yes, I know I certainly wasn't waiting.

20 You, you could have, you could have paid him- -?---Oh, yeah.

--at any point in time- -?---Absolutely.

--from the time that he completed that work for you- -?---Yes.

--and when you finally paid him, in cash, you say on the 22nd of December, 2006?---Yes.

30 You weren't short of funds at all, were you?---No. I certainly wasn't looking for \$27,000 to be deposited into my account, if that's what you're saying, no.

Well, what I'm saying is you could have paid him the money?---Yes.

Why didn't you pay him for the work that he had done - - -?---I hadn't been - - -

- - - at any point in time - - -?--- - - - in contact with him.

40 You hadn't been in contact with him, is that what you say?---In relation to that matter.

Or in relation to any other matter?---I can't, I honestly can't recall but as you correct surmise if someone owes you \$7,000 and you're sitting down at a bar having a drink or you're coming down to Sydney for an evening it would come up in conversation. I can only surmise, sir, that if it's 12 months since I last used Mr Roberts' services to when I paid him, I can only surmise that with my absence from Sydney and not making contact

with Mr Roberts that the discussion hadn't occurred. But I do know my nature and had he asked for it I certainly would have paid it.

I just want to find out this, is it your evidence that the fact that \$27,750 had been deposited into your account did not provide the occasion for you to then pay his \$7,000 in cash?---No, no, no, not in the slightest. I was totally unaware of it.

10 Now I would also like to now take you to page 54 and this is the first page of a Westpac Bank statement, again you'll see it's addressed to you, it's on the account of yourself trading as Management and Professional Services. This time it's for a period which runs from 22 January, 2007 to 22 March, 2007, so it's the, it's the bank statement immediately after the one we've just been looking at. Now I'd like to take you now to page 56 and there is a cash withdrawal of, on 20 February of \$8,000?---Yes.

Why was that amount withdrawn in cash?---Initially when asked I had - - -

20 Well, I'm asking you now - - -?---Right.

- - - why was that withdrawn in cash?---I believe it was for petty cash purposes, sir.

30 \$8,000 is an extraordinary amount of petty cash wouldn't you say for a business of the sort of Management and Professional Services?---On average I had a petty cash float ah, \$8,000 is more than I normally had in my float but I actually had an immediate requirement to pay ah, a request, not a requirement, a request to pay a consult, a contractor, loan a contractor some, some funds for, \$1,000. Um, I had probably depleted my petty cash float over a period of time and it certainly is ah, more than I normally would have had in my petty cash, there's no doubt about that.

Well, let's think about this petty cash thing, you'll have to explain to me. Where do you keep this petty cash?---At the moment it's in my safe, at that point in time it was probably in my safe.

Now you were paying contractors, why are you paying them in cash?---Ah, in this case Mr Roberts ah - - -

40 Well, I haven't, you hadn't identified until that point, who was the contractor that you say you paid the \$8,000 to here?---Oh, I see what you're saying. Um, that was a, not one of my contractors, I was a contractor engaged to Computer Associates and a Computer Associates contractor was, as the project manager, had come to me and said that he hadn't been paid his salary yet, his contract, and that if Computer Associates didn't pay him soon he would have no option but to leave the project and seek work elsewhere where he could get paid and I lent him \$1,000 until such time as he was put on the CA register and, and in due time had been paid.

So you were paying someone's salary on behalf of Computer Associates?
---I was loaning a colleague \$1,000 for living expenses until such time that he was put on his employer's book.

Who was that?---Computer Associates.

No, who was the person that you identify as having - - -?---A gentleman by the name of Tommy Tag.

10

And was there any other person to whom you recall that you gave part or the rest - - -?---No, not at, not at that time.

Well, if we go back to page 14 of your statement, if we go to the bottom of that page again and scroll down you'll see the second paragraph of this statement, the one that you've signed - - -?---Yes.

- - - you say you have difficulty recalling - - -?---Correct.

20

- - - the 8,000 withdrawal and you say, As was the practice I believe the withdrawal was petty cash. \$1,000 to Tommy Tag?---Correct.

\$2,000 part-payment to RH ?---Yes, eventually, not immediately.

No. And you say at no time was any portion, I, I expect you meant of these funds paid to Roberts or third party to Roberts?---Correct, correct.

30

Why were you paying \$2,000 to Mr RH ?---At, at that time I did have no idea I was paying Mr RH a specific figure although I did know I owed him for some work that he was doing for me um - - -

So just, I need to be clear?---Yes.

When you say you have difficulty recalling the \$8,000 withdrawal so you don't actually remember going and taking \$8,000 out?---In hindsight, no.

40

But your, your recollection is however, that you did pay these, these amounts in cash to Mr Tag and also to Mr RH ?---Immediately to Mr Tag some months later in fact as part payment of services adding up to \$12,000 of which I only withdrew \$10,000 from the bank account in November. I paid Mr RH - - -

Well, when, when had Mr RH done work for you?---Um, in the final stage of the Unisys project.

When was that?---Um, I think it wrapped up in October or November 2007, that, that component.

2007?---Yes, that component.

When the work for which you were paying \$2,000 to Mr RH - - -?
---Correct.

- - - when had he performed that work for you?---Ah, he would have started that in 2006 when I was in Melbourne with Computer Associates.

10 And you say the 2,000 was part payment of a, of, of a greater amount - - -?
---I didn't actually give it to him until November but yes, it was part-payment, it was going, it made up part of the payment.

When you say I didn't give him until November of which year?---2007.

20 So you held onto, on your recollection, of the \$8,000 you were withdrawing in February 2007, you held onto 2,000 of that to pay him many, many months later?---When the project actually finished, at that time I knew I owed him money but the final figure – we, we decided that in my absence he'd perform that piece of technical work for me.

Wouldn't you consider it to be extraordinary that you would make a withdrawal of cash in February 2007 and hang onto that cash until November of 2007 to pay someone for a project on which they're working?
---I, I actually hung onto that cash, sir, until probably 2009, that cash still lingered.

30 So you were making a withdrawal in 2007 of \$8,000 for amounts that you didn't pay until exhausting that amount until some two years later?---I withdrew, as, as you, as you say here in 2007, in November – yes, in February 2007 I withdrew some cash ah, some of it I knew would be part payment to RH but the piece of work Mr RH started in the previous year didn't actually finish until later, 2007, in November.

Why didn't you pay him \$2,000 in February 2007 when you knew at that point that you owed him \$2,000?---I knew I owed him money, we hadn't discussed exactly how much at that point in time. In fact I told him that the piece of work that he was doing would be worth about \$20,000 to him in gross if, for performing it.

40 And was Mr RH asking you for payment for the services he'd given you?---Sorry.

Was Mr RH asking you - - -?---No.

- - - for payment - - -?---No, he didn't - - -

- - - on the service he - - -?---He didn't ask - - -

- - - he'd already given you?---He didn't ask – Mr RH is a gentleman, sir. He didn't ask for payment of his funds until such time as he finished the work.

So he didn't ask for payment until November 2007?---Correct.

Is that your evidence?---Correct.

10 But you took out money in anticipation of paying that some later time?---I did owe him. Absolutely. I did take out funds at that time.

But at no point until November did he ask you to pay him for the work he'd done - - -?---Correct.

- - - a year earlier?---Correct. It, the project dragged on inordinate amount of time. We all thought it was going to finish quite some time.

Well, you've had time to reflect on this?---Yeah.

20 Don't you consider it to be extraordinary that you would be withdrawing \$8,000 in cash in February, 2007 and not paying a person for work that they had already done for you?---Considering the \$8,000, sir, is – the \$2,000 is a portion of the \$8,000 um, and considering that there were other expenses incurred plus a trip overseas where those funds were utilised and I don't spend a lot of money ah, it didn't seem unduly odd to me at all, although I do say to have \$8,000 is considerably more than I would have had normally.

30 If we were to comb through your bank accounts would be see regular lumps of cash being taken out by you of this type?---No. In fact, since ah, incorporation as Management and Professional Services in 2005 there's only been rare occasions that had cash had been withdrawn. Prior to that \$7,000 discussed there was \$4,000 withdrawal of which I actually needed teller assistance to withdraw it. That was my first substantial cash withdrawal. Then there was the \$7,000, then there was this \$8,000 and then later in the year in November there was the \$10,000. Following in 2009, 2010 for overseas trips there were cash withdrawals. Other than those occasions there were no substantial cash withdrawals. In fact, in September, 2012 I had I think \$1,800 still cash at that point in time in my safe that I banked.

40

Mr Killalea, is there anything that you are hiding from this Commission - - - ?---No, sir.

- - - about what you did with the \$8,000 that was withdrawn in February of 2007?---I would, I would say that I have, I have difficulty recalling that withdrawal. There's, there's absolutely no doubt about that but ah, if I'd withdrawn the \$8,000 that's what I'd be using it for because I had immediate cause for um, \$1,000 for Mr Tag which he subsequently repaid

three or four months later. But I make no hesitation in my comment. I do not recall making that withdrawal very easily.

Now, I'd like now to turn to a period of time in which – while Mr Roberts was working in Newcastle. I'll concentrate on that. Did he ever come and stay in your home whilst he was, whilst he was living and working in Newcastle?---Sorry, sir, I missed that.

10 Whilst Mr Roberts was living and working in Newcastle did he ever come and stay in your home?---Living and working in Newcastle. Yes, he would have.

Yeah. Well, you say would have. You can recall that he actually did do that in that period?---(No Audible Reply)

20 So just concentrating again. He's living in Newcastle, he's working in Newcastle, he comes to Sydney, was there ever an occasion when he stayed in your home?---Yes, he would have. Ah, I recall some sporting events or a birthday dinner or something like that.

And how often would that have been through that period?---Birthday events occur once a year. Ah, sporting events um, seasonal, probably football um, occasional, occasional.

And was it just him who was staying in your home?---No. Um, birthday events, dinners so forth would have been Mr Roberts and his wife. Sporting events was probably a family affair.

30 And were they weekdays or weekend visits?---Um, whilst Mr Roberts would reside in my property as I say during the week on occasion ah, the family were always a Friday or a Saturday.

Now, you recall that Mr Roberts left working at the University of Newcastle and he commenced working at NASDAQ on the Exchange, NASDAQ OMX. Do you recall that?---Yes.

Now, that involved him while still living in Newcastle working in Sydney? ---Correct.

40 Now, he began commuting to Sydney for that work from his Newcastle home. Do you recall that?---Yes. Yeah.

And do you recall that he reached an arrangement with you in relation to him staying at your home?---Yes.

Giving the effect of what was said, how did that arrangement come about, was it a conversation between the two of you in which you made the offer or he made the request?---I would have made the offer.

So you knew he was commuting and you said to him you're welcome - - -?
---Yeah.

- - - to stay at my home. Is that - - -?---Yes. Yes.

And did you reach an arrangement as to the particular nights on which that
would happen?---It, it was such that I believe he worked from home on
Wednesdays so it was such that he would therefore need accommodation
10 Mondays, definitely most Mondays ah, Monday evenings. Thursdays
wasn't so regularly um, but definitely Monday evenings.

And he stayed there on occasion even when you weren't there. Is that
correct?---Yes. I was overseas a couple of times.

And roughly as a percentage, how often would you have not been there
when he was staying there on a Monday or a Thursday night?---I'm
probably not there 20, 30 per cent of the time if you take into account
business trips, family trips and so forth.

20

And did Mr Roberts have a key to your home?---Yeah.

Did he have unrestricted access to all parts of your home?---Yes. He was a
friend.

Did he have access to your computer at home?---Yes. It was part of my
premises.

Did you give him an access password to your computer at your home?---It
30 would have come out in conversation ah, over the course of several years. It
certainly would have come up as a, as a requirement.

Well, you say would have, do you have a recollection of saying to him look,
here's the password of my computer. Use it as you, as you wish?---Ah, he –
yes, he did, he did and access to the Internet.

Did Mr Roberts ever offer to pay you for staying at your home?---No. I am
probably the one that made the suggestion to him and contrary to your
opinion or your view of the world, my view was that as a friend he was – he
40 could stay at my residence with the price of a meal and a beer at the local
pub.

Did he ever pay for a cleaner of your home?---Yes. Yes.

Did he eat meals at your home?---Ah, he would have takeaways. I never
cooked.

And did you have other family staying in your home from time to time?

---Yes.

And have you ever stayed at Mr Roberts' home in Newcastle?---Yes.

Does that include the Christmas when you visit on Christmas, did you stay at their home?---I actually can't recall but I would assume that after Christmas lunch I wouldn't be driving back to Sydney so I assume I stayed there that evening and there were other evenings when I'd get up to MR Roberts's property to escape Sydney.

10

Now, you appointed Mr Roberts as a trustee of the Management and Professional Services - - -?---Yes.

- - - Superannuation Fund?--- Yes.

When did you do that?---When I restructured the company to Management and Professional Services ah, going from a two director company to a one director company for self-managed super fund purposes I needed a trustee for my superannuation fund so it was probably late 2008.

20

And what does that role involve?---Just a custodial paper-based role that um, if anything became of me, if I was killed in an accident he would ah, be responsible for managing my ah, superannuation ah, payout or whatever.

How long did he hold that role for?---Until ah, until ah, October, November, December – December, 2013.

And why did he cease to hold the position as trustee?---Ah, I had no more faith in Mr Roberts.

30

But prior to that point you had placed you say a considerable amount of trust in Mr Roberts?---Correct.

Now, you recall that after Mr Roberts ceased working at NASDAQ he took on a position at the University of Sydney?---Correct.

Can you recall about where you became aware of him taking on that role?--- He would have requested if it was okay to continue staying at my property as before, um, the exact date sir, I can't recall.

40

So the arrangement where Mr Roberts came down and stayed most Mondays and Thursdays continued through that period?---Yes, correct.

And your friendship with him continued through that period as well?---Yes, absolutely, yes.

Do you recall the circumstances in which Management and Professional Services became an accredited supplier to the University of Sydney?---Yes.

Did Mr Roberts speak to you in relation to that occurring?---I can't, this by the way was late 2010, I can't recall whether he actually spoke to me but I do know he sent me an email requesting my corporate details.

We'll turn to that email, it's page 1093 it will just come up in front of you. You'll see working at the bottom it's an email from Mr Robert's to yourself on 2 November 2010 and he says, we need you guys to complete the attachment and get it back to me so we can set you up for payment. Now
10 can you recall the terms of the conversation with Mr Roberts before that email was sent to you about this issue?---As I said, I can't recall the conversation but it would probably be around the fact - - -

I don't need you to guess. You can't recall, you can't recall?---I don't recall the conversation.

So the email's arrived, he's asking you to complete the attachment and you then send him an email on the same day in which you say here's the completed vendor form and if we turn over the page to 1094, you'll see
20 there the vendor form.---Yes.

That is the document that you created, that you filled in - - -?---Correct.

- - - with all those details that you sent back to Mr Roberts.---Yes.

Can you recall why it was you were responding to his request to complete that form?---I was responding to his request.

Yes, to do what?---To complete the vendor creating form.
30

But what had he said to you about why you would need to complete such a form?---Because he wanted to set up Management Professional Services for potential work at the University as he did initially at Newcastle.

Can you recall a conversation with him where he said to you anything about what that potential work could involve?---No, no, it was always, we always had discussions about potential work.

So, just so I understand it, he said to you, there might be some potential
40 work, we need to get you on the system.---It would have, the conversation which I can't recall would have been around those terms.

Now, looking at the details that are on that form, are the address and the bank account details that are contained there, are they all correct in terms of Management and Professional Services at that time?---I've got the easiest bank account number in the world to remember, so yes, that's correct, ABN I assume as well. The telephone number is correct, the address is correct yes it appears to be correct.

Now did you or Management and Professional Services ever do any work for the University of Sydney?---No, no, nothing ever came of it.

Now if it was suggested to you that Management and Professional Services did perform work for the University of Sydney and that work involved you assessing the heritage parts of about six buildings at the University on a building by building, floor by floor, room by room basis to determine how the Heritage Legislation effected the cabling of those buildings, what could, what couldn't be done, what would be the time, the time frame, what would you say about a suggestion - - - ?---I wouldn't have a clue what it mean, sir.

I see. So a ridiculous suggestion.---Absolutely.

Would Management and Professional Services be equipped in other words you - - - ?---No.

- - - equipped to assess Heritage Legislation and its impact on the cabling of building at the University.---Sir, the answer no I'd have trouble spelling half those words.

Would you, would you be equipped to work out a costing of such an exercise?---No.

Do you recall ever receiving any communication from the University of Sydney regarding any payments made to Management and Professional Services?---Yes, I do.

When do you recall that communication?---Yes, this form was submitted late in 2010 - - -

Well, we've seen that you sent it back on 2 November 2010.---Okay, November. Somewhere shortly thereafter, December, late November/December I received a random remuneration notification email from Sydney Uni to the value, at the time, I couldn't recall whether it was four or \$40,000 it was in fact \$4,700 an email notification, a remittance advice in other words from Sydney University.

And did you do anything having received this remittance advice?---Mmm, I rang Roberts up immediately and asked him what, yeah, I would have sent what are you fools doing, why have I received this? The response was it was a test run and it was a mistake.

What did you do with the email that you had received from Sydney University?---I, the Roberts said it was part of the systems test, it shouldn't have gone through and simply delete it. At this point in time, I had no reason sir, I wish I had kept it, but at this point in time I had no cause to doubt anything other than incompetence and I deleted it.

And did you, or Management and Professional Services ever receive any payments from the University of Sydney?---Nor further communication.

Now, I just want to now take you to the documents which start at page 66. Now these are a set of invoices that run through from page 66 through to page 74. I'll just get you to focus on the one at page 66 first.---Yes.

And again, like the other invoices just look at in general terms.---Yes.

10

And then we can scroll through to 67 and I'd like you to again look at it in general terms and then 68 and please do the same thing.---Yes.

69, 70, 71, 72, 73 and 74. I'll ask you these questions about that set of invoices. Did you create each of those documents?---No documents.

You didn't create any of them?---No.

What are your reasons for saying that you did not create those documents?---

20

As stated before there are a few anomalies in this document which again, I assume is being presented in a Word document format from my system template. First, anomaly that I noticed is the top right hand corner, invoice number. I had a unique client invoice number three-digit number, I only had a three-digit, I only had capacity to – I tried later to change the invoice numbering to day/date format. For example, if this is the University of Sydney it would have probably said Sydney Uni or Uni Sydney and then a, then a three-digit number, I only had a three-digit, I only had capacity to – I tried later to change the invoice numbering to day/date format but I was unsuccessful, but so first the invoice numbering sequence or format is wrong, secondly the nature of the way the services descriptions are put together and the other one was the same, my invoicing system only has one line item for a date and that line item would be, as I said, something simple, generic, professional services, consulting services. Quantity is always one, two, three, four, five, whatever, rate relates to that quantity. Now, the rate didn't exist in the, wasn't present in the previous set of invoices you showed me but here there is a rate, and quite frankly I don't know whether it's a day rate, a month rate, I have no idea. So there's an anomaly there. The services description, I don't even know who Mills is. Um, and down the bottom right-hand corner – oh, incidentally you may notice this time in the document there's a GST component. That's similar to my invoicing system, which was not present in the Newcastle University invoices that you showed me.

30

40

MR McGRATH: Not, not in that format?---Not in that format, no.

Yeah?---And this is, this is the type of thing you see in my invoicing system. However, the real interesting issue, the salvation, is the bottom

right-hand corner is, this is not my bank account, this is not Management and Professional Services' bank account.

Do you know whose bank account details they are?---No, no, I, I, I, I, I can only assume, but they're certainly not mine.

10 And apart from those anomalies, is this the form of template that you recognise as being used by you in Management and Professional Services' invoicing system?---As I said, sir, it looks very very similar, but from my viewpoint, from what I know that my invoicing system is, from an expert's opinion, there's just five or six anomalies here that aren't in my invoicing system.

And did Management and Professional Services ever do any work for University of Sydney - - -?---No.

20 - - - as described in the invoices?---No, sir, never. In, in, in, in context of what is described or what is implied or otherwise, never. Same as Newcastle, yeah.

Did Management and Professional Services ever receive any money from the University of Sydney in payment of these invoices?---No, sir.

Now, I would like to turn now to a period of time in which Mr Roberts has ceased working for the University of Sydney and do you recall where he was working immediately after he left his role at University of Sydney? ---Not any more.

30 When he ceased working at the University of Sydney did he also cease to stay with you on a regular basis?---If he wasn't in Sydney he wouldn't have been, wouldn't have had the need.

Do you recall that he took up a position with Macquarie University? ---Yes.

What's your memory of when that happened?---2012? I'm, I'm guessing, sorry.

40 And do you recall what he was – did he tell you what he was doing at Macquarie University when he took up that position?---Yes, he would have again um, asked if he could continue staying at my place and it would have been discussed what he was doing there.

From the period of time in which he was at the University of Sydney, staying with you on a regular basis - - -?---Yes.

- - - until he took up the role at Macquarie University and again started staying with you on a regular basis- - -?---Yes.

- - -were you in regular communication with him?---I'd say we were in communication, I had no reason not to be in, not to be in communication with him, and I dare even say he probably came down and stayed at my place after a function or an event. I definitely assume that we continued catching up, talking, but not regularly.

You would regard your friendship as continuing during the period - - -?
---Mmm.

10

- - - in which - - -?---Yes.

- - - he was working at Macquarie University?---Absolutely, sir.

Now, do you recall Mr Roberts contacting you to discuss you possibly doing some work for the Macquarie University?---Yes, yes.

20

Can you give us the gist of the conversation that your recall having had with him about that topic?---Yes. It was, it was 2010 that he was at Macquarie University. Um, sorry.

You said 2012?---2012, my apologies.

Yes?---2012.

So during 2012 - - -?---Yeah, so - - -

30

- - - do you recall him contacting you about the topic of you possibly doing some work- - -?---Yes, he, he, he - - -

- - - for the Macquarie University---He would have, he would have been working at the Macquarie University, would have been residing at my property on a Monday and Thursday evening as before, and it would have been, it was probably again two or three months after he started at Macquarie University that he again informed me that there was this time definitely contractual work available at the University where he was working, at Macquarie University.

40

Now, stopping there, you'd been effectively mentioned as a promise of work at Sydney University- - -?---Mmm.

- - -and it hadn't eventuated?---I know.

Had that caused- - -?---Nor at Newcastle.

Had that caused you to comment to him about whether this was real this time?---Oh, look, there's always promises of opportunity for work. For example, I now recall that prior to Macquarie University he was working as

a recruitment agent at, in Newcastle and his agency on occasion at his advice contacted me for potential opportunities for work. There was always hope of work.

But you didn't, you didn't have any cause to doubt each time he mentioned that there was a possibility of work, that that was a real - - -?---Yes, I always had hope.

10 You had hope. Now, do you recall the nature of the project that he mentioned to you, the real work - - -?---Yes, this made- - -

- - -that was available from Macquarie University?---Yeah, this - - -

What, what did he say to you - - -?---Yeah.

20 - - - about the sort of project that he had in mind?---It, it was something that was in my core competency, which it was good, it was just like Newcastle University's proposal, that was a professional services engagement of a project office, this was again similar to that but, but a little more analytical in nature, to, to collect their documentation around processes, procedures, systems, processes, procedures, workflow, operational structure, there was also, there would also be a component, although not discussed, but there would have also been a component about performance lots, bandwidth, adherence to meeting service level agreements and things like this. It was to collect this material, to review it looking for opportunities for process improvement, for, for streamlining, to come up with a report that would enable the division or the client to streamline their processes, save costs.

30 And did he mention anything about him being involved in the work?
---Um, yes ah, initially it was going to be a 50/50 arrangement where he would, he was in a position to source the client's material, the um, various operational material, manual documentation, even perform, save me the effort of collecting their performance lots or statistical reports, he could do all of that on my behalf and leaving me with the report, analytical report documentation come up with a solution.

Now, in your answer then you just mentioned it being a 50/50 arrangement?
---Mmm.

40 And you also mentioned that he would be doing things on your behalf?
---Correct.

Did you envisage at that point that any work that came up of the sort that he had described would be work for which he would be getting paid by you in invoicing that work?---Yes, yes. Um, absolutely. That, that was going – he'd collect the material, he'd, he'd perform half of the work and my, my half, my component – this was the initial discussion, it's not what

eventuated, but the initial discussion was then I would put together the reporting and the analysis.

10 But you understood him to be a person who was employed by Macquarie University didn't you?---I don't actually know whether he was employed by the University or an agency. Sometimes these universities have an outsource department, he had, he wasn't – his title was something, it had a University name ah, reference to it but it was informatics or something so often these universities, these organisations had a, a department that responsible for running their IT infrastructure that's actually an outsource structure, I just, I, I know in hindsight there was a flag there but I missed it.

Just so I understand it it didn't strike you as being unusual that you understood him to be a person working at the University and you assumed being paid for that work - - -?---Correct.

- - - whilst at the same time he was going to be involved in a project on your behalf with a 50/50 arrangement?---Yes, for the client.

20 And that didn't strike you as unusual at that time?---No, it didn't. Yeah. Hindsight's a wonderful attribute.

Did he say when the work needed to be done?---Yes, it sounded rather ah, immediate, certainly within the next three months.

30 And did he say how much work would be involved, how much in time, time's work worth?---Yes, 'cause, 'cause this, this was discussed because at the time I was working fulltime and any, any work that I would be engaged in, particularly if there was a timeline deliverable, I had to make sure I was available to do it. Um, it, it appeared that there was about 20, 25 to 27 days' work in total, 30 days perhaps.

So about a month?---About a month's work.

Stretched out across a period of - - -?---I would say, these things usually stretch out over a period of time or they even start off to be stretched out over a period of time and then they often expand but it was going to be over a three-month period I could see.

40 And did he – well, did you envisage how much money this work was likely to be worth to you?---From my perspective I, I, I usually as I said charge between 1,000 and \$1,500 a day depending on the nature of the work. Ah, from my perspective I, I was available for 10, 12 days over a three-month period, I could devote 10 to 12 days, maybe even 15 days to it so I could see how much there was involved from my perspective, yes, from a work effort perspective.

So taking those figures, if you did 30 days' work at \$1,000 a day you would have \$30,000?---Yes, yeah.

If it was 1,500 it was \$45,000?---Yes. Well, if it, yes, correct.

And you had a discussion with Mr Roberts about there being a 50/50 arrangement?---Correct.

10 So you, did you also envisage that you'd be paying him something in the order of \$20,000 and you'd be keeping \$20,000 if we're talking about 40,000?---Yeah, well, half of whatever it came down to.

Yeah?---Yes.

I see?---That was initially.

Yeah, but you were always focussed on the fact that around about \$20,000 would be what you'd be paying him and you'd be keeping the other 20? ---Correct, correct.

20

Did you speak to anyone else at Macquarie University about the possibility of doing this work for them?---No, in all, in all of these years, since 2000 Mr Roberts was always my single point of contact, no matter what client engagement it was.

And do you recall completing any documentation for making Management and Professional Services an accredited supplier to the, Macquarie University?---Not at that time, no, it wasn't discussed, it wasn't done.

30 Now did anything come of this mention of work by Mr Roberts, did you ever do any work for Macquarie University?---No.

40 I'd like to take you now to page 92. Now this is an invoice, Management and Professional Services and you've got the date of 7 December, 2012. Now looking at that invoice can you tell me who created it?---It certainly wasn't me. Now, here's the problem. I raised invoice MQ011 on my invoicing system and that's the invoice I submitted to Roberts at his bequest when he asked me in October, November, December that year, 2010, to submit an invoice for work that that hadn't even commenced. I know this is wrong but nevertheless the facts are this is not the invoice, even though I made up an invoice MQ011 for exactly those figures it would have been, services description would have been a one line item, not a story, MQ in invoicing number MQ0011 is not, my system can't, I can't get it to give three, more than three digits. So even though I at Roberts' bequest raised an invoice MQ011 for that same figure on my invoicing system this is not it and that's just bizarre.

And you think, do you, that having submitted that, having submitted an invoice to Mr Roberts the amount, the invoice that ultimately arrived at the University, which is this one here - - -?---Correct.

- - - is not the same as the one that you created?---Not the same, sir.

When he asked you to create the invoice that you did create what did he say to you?---Yes, this - - -

- 10 The gist, the gist of what he said?--- - - - took quite a description, this was as you'll be glad to hear, a meaningful discussion. Ah, his comments were along the lines that it was his, he was the director, he was managing this. Ah, he was controlling the budget and the budget had a surplus at that point in time which I think was October 2012. He wished to pay the figure now, yes, I know, it's all wrong but nevertheless this is just what occurred.

- 20 Just concentrate on what he said to you?---Yes, yes. Ah, to submit the invoice because the funds were available now, the ah, he had performed the majority of his component and would be able to supply the material, the material in the immediate future. It was going to fall within the three months' expected timeframe but the anomaly was as I said raising the invoice at this point in time but he said that this was okay 'cause he was in control of it. My concern was - - -

Before you – I want you just to concentrate on the conversation?---Yes. This is it.

So you've said to me the gist of what he said to you?---Oh, I see.

- 30 I need you to say that, the gist of what he said to you?---What he said to me what submit the invoice now because the funds were available. He was in a position to cover the fact that the work hadn't been performed yet and yet was able to, would be forthcoming within the next reporting period, the next three months, that he was in a position to cover that. My question back - - -

Before, before you say that that's what he said to you?---Correct.

He said, has he, he's asked you to create an invoice?---Correct.

- 40 Did he give you instructions as to what the invoice should say?---Ah, yes, because when I submitted it to him he said that I had to change the service description to licence agreement or something to that extent and - - -

Did he tell, did he tell you who it should be addressed to?---Ah, yes, yes.

Did he tell you the amount of money that should be stated in the invoice? ---Yes.

Did he tell you the project title that should be on it?---Yes.

Did he tell you the date that it should have?---I would have - - -
No, I just, I need you to - - -?---Right.

- - - turn your memory to this?---Okay.

Not, no, not guesses?---Ah, I would say yes because it was that, it had to be
in by the end of that reporting period which I believe was October.

10

Did he, did he tell you in your, in your first draft what the services
description should, should say?---Not in the first one.

And did he tell you what invoice code should be on it?---No, um, that was
me because I wanted to relate it to the month. Um, yes, yes, he did actually.
He wanted it to be, he wanted it to be day, date, time stamped in the invoice,
I couldn't do any more than relate it to the month.

20

And he told you all of those things?---Yes, because I had no idea – I hadn't
– I had no documentation.

Now, did you create an invoice in accordance with the instructions - - -?
---Yes.

- - - that he gave you?---Yes.

Can you recall the date about when this conversation happened when he
provided you with these instructions?---He would have been present at that
date and I would have produced that invoice on that date at his bequest.

30

And do you believe that date to be 7 December, 2012?---Could I, could I
look at my invoice copy please to verify that exact date.

Well, no, I just want - - -?---Okay.

- - - want your memory of it?---I can't recall.

But you recall creating an invoice - - -?---Yes.

40

- - - with him physically present?---Yes.

Were you at your home?---Yes. In my office.

He was overlooking the computer screen as you created it?---I, I assume.
He was in the room.

He looked at the invoice on the screen. Is that correct?---He would have.

Just I'm trying to get you to - - -?---I know. I know.

- - - concentrate - - -?---I know. I know.

- - - and give me - - -?---I know.

- - - your best memory of it?---I know. I understand. I'd say yes or at least when it was printed he would have been able to read it.

10 So he either looked at it on the screen or he reviewed a hard copy of it?
---Correct.

Did he immediately give you his comments on the - - -?---Yes.

- - - document you had created?---Correct.

20 What did he say?---It had to have a different service description. The service description had something to do with funds available and it had something – it was – the service description as he said related to some funding that he had available which related to licensing.

Did he dictate to you a service description that you then entered into your computer - - -?---Yes.

- - - on the invoice on the screen?---I wouldn't have had any idea what services description other than my own.

30 Do you recall any other change that you made to the invoice that you created other than the service description in response to his comments?
---Not, not on my system, no.

What did you do next - - -?---I would have - - -

- - - having changed the invoice on your screen - - -?---I would have - - -

- - - with him physically present?---I would have printed it, printed it off and handed it to him.

40 You didn't email that invoice to him?---Throughout this entire engagement, at all of these institutions I have not one single email substantiating communications with Mr Roberts. The answer is no.

You've no memory of an email of that, that document to Mr Roberts?---No, sir.

Did he, did he say anything to you about what he was going to do with the invoice?---I – no, no, no. I can only assume.

What did you do with the invoice that you had created?---Handed it to Mr Roberts.

That might be a convenient time, Commissioner.

THE COMMISSIONER: Thank you. Mr Killalea you can step down till 2 o'clock. I'll take a short adjournment for lunch.

MR KILLALEA: Thank you.

10

THE COMMISSIONER: Thank you.

LUNCHEON ADJOURNMENT

[1.03pm]