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17/02/2015

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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 TUESDAY 17 FEBRUARY 2015

AT 2.07PM

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, Mr McGrath.

MR McGRATH: Commissioner, I call Emiel Temmerman.

MR TAYLOR: Commissioner, whilst Mr Temmerman makes his - - -

THE COMMISSIONER: Yes.

10 MR TAYLOR: - - - way to the witness box I can indicate that he'll take an affirmation.

THE COMMISSIONER: Yes.

MR TAYLOR: And I would ask that you make a declaration under section 38 of the Act.

20 THE COMMISSIONER: Yes. Thank you. Yes, just take a seat, Mr Temmerman. Has – it's been explained to you the effect of a section 38 order?

MR TEMMERMAN: Yes, it has.

THE COMMISSIONER: You understand that the order protects you from the use of your answers against you in any civil or criminal proceedings that might be taken but it does not protect you if it is found that you have given false or misleading evidence. You understand that?

MR TEMMERMAN: Yes, I do.

30 THE COMMISSIONER: All right then.

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.

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

THE COMMISSIONER: Can we have the witness affirmed please.

THE COMMISSIONER: Yes.

MR McGRATH: Would you please state your full name?---Emiel Temmerman.

And you're 41 years old?---Yes.

10

What's your occupation?---I'm a wireless engineer.

And what level of school did you reach?---Um, I finished high school and attended ah, TAFE and did an Associate Diploma of Electrical Engineering.

And did you complete that diploma?---Yes.

Do you have any other professional qualifications?---No.

20

Now, could you please give us a quick summary of the employment that you've had since you completed your diploma. So when you finished the diploma what did you do?---Um, I obtained a role with Optus in Australia as a um, a PlayStation deployment engineer which is a - - -

And how - I'm sorry?---And um, I had that role from 2005 to 2006, or 2007.

30

And what did you do after that?---Um, I obtained work overseas um, in Saudi Arabia ah, working as a design, well, a mobile phone network design engineer for Lucent Technologies. I was there for a year also and after that I also worked in, in um, the Ivory Coast in, in Africa doing the same thing for Siemens and after that I also worked in Switzerland for Orange Communications for three years doing RF design engineering work on their mobile phone network and um, that was for, for three years and then the final six months of me working overseas I was in Bangkok working for Orange Communications, again designing and building networks for mobile phone technology.

40

And when did you come back to Australia?---In 1999.

And what have you done since 1999?---Started a business in 2000 with a, my business partner, Craig Moorfoot, named iPath Pty Limited.

And you're a director of that company?---Yes.

And you're a shareholder of that company?---Yes.

And Mr Moorfoot is the other director and shareholder?---Yes.

And it's a 50/50 corporate partnership. Is that correct?---That's correct.

And it was established in about 2000. Is that what you said?---Yes, that's correct.

What is the core business of iPath?---Wireless network design, so for Wi-Fi solutions, we do the um, determine the placement um, and also install the systems and then commission the systems and integrate the systems.

10

And do you do that for business premises?---Yes, for business.

Do you also do it for residential premises?---No, it's purely for business premises.

So it's quite sort of large scale and more complicated end of the Wi-Fi network design?---Yes, it is. It's large corporations and educational institutions.

20

And do you also do consultancy work in that company?---Yes, yes.

And what's the nature of the consultancy work you do?---Um, it's again just um, assisting vendors or, or integrators in the design of those types of systems.

Now, whereabouts is the business of iPath, iPath based, is it a Sydney-based business?---Yes. It's um, myself, I look after New South Wales um, Queensland um, Northern Territory region, and my business partner, he's based in, in, in Victoria, he looks after the southern states. He looks after um, um, Victoria, Tasmania, South Australia.

30

And do you have employees?---Just two administrative staff, one in each state.

So to do the work involved in iPath's business, do you engage subcontractors?---Ah, to fulfil installation roles, yes, such as cabling and electrical-style installation roles associated with the business, yes.

40

But otherwise, excuse me, the scoping and design work is all done by yourself, Mr Moorfoot or your two employees. Is that right?---Yes, that's correct.

Are the subcontractors that you use ones that you select or are they ones that the business clients select?---Um, normally we would – it depends on the customer. If it's a large corporation that has a um, relationship with a company who is familiar with their premises for doing electrical work, they may suggest to us that we should use those, that company because they're familiar with their, their um, processes, procedures and their facility, but if

it's, if we have other opportunities where we get to select the company that we use.

Now, has iPath done work for the University of Newcastle?---Yes, it has.

10 And what work were you doing at the University of Newcastle?---Um, we were engaged um, by IBM um, IBM won a tender for work there, for wireless design work, and we were fulfilling the, the wireless design components, we were scoping um, um, they had a requirement for the classrooms and for, for the general teaching spaces to provide Wi-Fi services on those areas and we were to determine the placement and the quantity of equipments required to, to meet their design standards.

And when did you perform that work for the University?---Um, the University of Newcastle was in 2006 or 2007.

Did you tender for that work or did you put some form of quote in that was accepted?---We ah, tendered with IBM, so IBM tendered for the work.

20 I see. And has iPath also performed work for the University of Sydney?---Yes, it has.

And what work were you doing at the University of Sydney?---The same type of work at the University of Newcastle.

So you were doing a design of a Wi-Fi network across the buildings there? ---Yes, that's correct.

30 How many buildings approximately did you do the design for at Sydney University?---We continue to work for the University of Sydney, we've done more than 100 buildings there.

And when did you do, when did you first start working for the University of Sydney?---Um, the University of Sydney was um, 2008, ah, 2010.

2010?---Yes.

And you continue to do work for them today?---Yes, we do.

40 And did you tender for that work or did you put a quote in that was accepted?---We put a ah, quote in that was accepted.

Now has iPath performed work for Macquarie University?---Yes.

And what work have you been doing at Macquarie University?---Ah, the same style of work as at the other universities.

And what was the period of time over which you did that work?---Um, we started at Macquarie University in 2012, in September, and um, we finished the work in um, September, sorry, January 2014.

And did you put in a tender for that work or did you just put a quote for it?
---Ah, quote for specific, quote for specific businesses specific buildings.

And did you invoice regularly as you went along on all of the projects that you did?---Yes, yes.

10

And you were paid regularly by the Universities for the work that you did at each - - -?---It's on their payment cycle.

And why did the work at the Macquarie University stop?---Ah, the, the project was completed.

Now you know a person called Brett Roberts don't you?---Yes.

20 When did you first meet him?---Um, at the University of Newcastle, he was, he had a management role and he was associated with the, the project that IBM was working on.

So did you have day to day involvement with Mr Roberts on that project?
---No, it was just initial meetings when they were doing the initial project scoping.

Now was that in around 2006 that you first met him when you started work there - - -?---Yes.

30 - - - on that project?---Yes.

Do you regard yourself as a friend of Mr Roberts?---Not a personal friend, no.

So just a working colleague that you've encountered on projects that you've been working on, is that correct?---Yes, yes.

What was the frequency of the contact that you had with Mr Roberts on the University of Newcastle project?---Very infrequent.

40

Did you encounter Mr Roberts on the University of Sydney project?---Yes.

Did he invite you to be involved in that project did he?---Yes, he did.

Could you tell the Commission when you were invited by Mr Roberts to be involved in the project?---Mmm.

When, when abouts was that?---Um, it would have been when we, we first started working for the University, so it would have been in August 2010.

What did he say to you in relation to getting involved in their projects?
---That they have a project similar to the one that we worked on in the University of Newcastle in terms of requiring Wi-Fi to be rolled out across the, the University and that he would like to um, bring us in to do some of that work.

10 And did you have to become some form of accredited supplier to the University before you were able to do any work on the project?---Yes.

Were you aware of any procedure in the University by which you were to be selected to do that work over any other companies doing the work?---Ah, not that I'm aware of that so - - -

So there was no form of competitive tender process?---There, there is now ah - - -

20 But at the time that you did - - -?---But at the time I wasn't aware.

And what sort of frequency of contact did you have with Mr Roberts when you were working for the University of Sydney?---Again it was ah, really just initial contacts during project scoping phases and then day to day work would be handled by the, the line managers or the technical staff that I was dealing with.

What was his role in the project that you were involved in?---Ah, he was a manager, he was managing the staff.

30 Did you also encounter Mr Roberts on the Macquarie University project that you were involved in?---Yes.

Did he invite you to become involved in that project?---Yes.

Do you recall when he asked you to become involved?---Ah, in September 2012.

40 And can you recall what he said to you?---Ah, a similar situation as the University of Sydney so they had a similar requirement to what was previously done by our company and that he'd like to invite us to do the same work.

And did you have to become involved in any form of competitive tender for being granted that work at Macquarie University?---Not that I'm aware of.

What was the frequency of contact that you had with Mr Roberts on the University of, the Macquarie University project?---So that was similar to the

other Universities, it was initial ah, discussions regarding new projects and then after that the day to day dealings were with technical staff and - - -

And what was Mr Roberts' role in the project that you were working on at Macquarie University?---Um, his title was experience manager but he was the managing um, staff. He wasn't really as hands-on with the staff that I was dealing with as in previous roles.

10 So by the time that you had been awarded work at Macquarie University, in your mind did you regard Mr Roberts as being someone whom had, in effect, won you the work at both Sydney University and Macquarie University?---I think that he assisted because of the relationship, the business relationship that we had - - -

So - - -?--- - - - due to the work that we'd done previously.

So Mr Roberts was quite an important connection for you wasn't he?---Yes.

20 - - - on those projects. What sort of scale - I'll withdraw that. What sort of percentage of the work of your company did the university work occupy?
---The University of - Macquarie University?

We'll go through Sydney University?---Okay.

At the time you started doing that work all the way through to now, what sort of percentage?---I'm estimating ah, 20 per cent of our, of our business.

30 So a very significant portion of your company's turnover?---Between the universities, yeah, 20 per cent - - -

Yes?--- - - - I suppose between, yeah.

And 20 per cent for Sydney University first up?---Approximately.

And 20 per cent for Macquarie University as well?---Probably less for Macquarie.

Just a little bit less?---Probably 10 or 15 per cent.

40 I see. But in any event, a very significant portion of your company's turnover is represented by the work that you've done for both universities?
---With, yeah, those percentages.

Now, do you know a company called Management and Professional Services Pty Limited?---Ah, yes. Yes, I do.

When did you first hear of them?---When I was asked by Brett Roberts to um, to invoice for some work that they were performing for the university of – Macquarie University.

Now, when did Mr Roberts first mention that company?---Um, in November, 2012.

Can you recall a specific date or just you place, place it - - -?---Um, I have a – 30 November, 2012.

10

That's your best recollection of it?---Yes.

Now, doing the best that you're able to, could you tell us what Mr Roberts said to you on that occasion?---Ah, yes, that um, that company MAPS was (not transcribable) subcontractor was doing some – or a company was doing some work for the Macquarie University and that um, they didn't have a, a supply agreement with the university and were iPath able to um, to, to ah, invoice for that work on their behalf and pay them.

20

Now, did you understand the difficulty that was posed, so far as Mr Roberts was telling you, for a company that did not have a supply agreement with the university?---Did I understand the difficulty?

Did you understand the difficulty that was posed for that company when it didn't have a supply agreement?---Um, yes, I understood why Mr Roberts was asking, yes.

30

Yes. So you understood that if a company didn't have a supply agreement with the university then it wouldn't be able to get paid on any invoice that might render to the university?---Yes, yeah.

So did he say why Management and Professional Services didn't have such an agreement with the university?---No.

Was this the first time that you had ever heard of the mention of Management and Professional Services?---Yes.

40

Did Mr Roberts say what exactly it was that Management and Professional Services had done for Macquarie University?---Um, they were doing work um, scoping work for – work to do with the data centre at the university.

And did he tell you that Management and Professional Services had done that work?---They were – as I recall they were in the process of doing it, of doing it.

So he didn't actually confirm to you that they had completed it. Is that correct?---At that time ah, no.

Did he tell you what amount was involved in the invoice?---Ah, yes, he provided that amount.

Now, when he asked you whether you could invoice the university in effect on behalf of Management and Professional Services what did you say in response?---Um, yes, I'd be willing to do that.

10 Why did you say that?---Um, because of – Mr Roberts requested it, I had a trust in, in the man and um, I, I thought that under the circumstances that ah, you know, I'd be willing to help him out.

Didn't it strike you as being a highly unusual request?---I did find it unusual in that it's not, not, not a regular request. It's not something we've been asked to do before.

Well, is it something you've been asked to do since?---No.

20 You realised, didn't you, that what you were being asked to do was highly improper at the time you were asked to do it, didn't you?---I didn't realise it was improper, I just didn't think it was, it was regular.

Well, well, just think about it for a moment. Just in concept terms put yourself in the place that you were in when Mr Roberts asked you to do this. He has come to you and asked you under the name of your company to invoice Macquarie University for \$10,450 for work that your company hasn't done?---Yes, and I - - -

30 And you regarded that at that time as a highly improper thing to do didn't you?---Yes, I, I considered it to be, yes, improper, yes.

And Mr Roberts also told you that the work was in the process of being done but hadn't yet been done. Is that correct?---As I recall, yes.

And you realised it was highly improper to render an invoice under your company's name to Macquarie University for work that hadn't yet been completed didn't you?---Ah, yes.

40 And you knew, didn't you, that Mr Roberts was an employee of Macquarie University didn't you?---Yes, I did.

And he was coming to you to ask you to render an invoice on behalf of another company wasn't he?---Ah, yes, he was.

Did he tell you what connection he had to Management and Professional Services?---No, he didn't.

Did you ask him?---No, I didn't.

Did you speak to someone from Management and Professional Services to get their confirmation as to what Mr Roberts had told you?---No, I didn't.

So you just took Mr Roberts' word that you should render an invoice that you regarded as a highly improper thing to do to Macquarie University did you?---I – at the time I, I thought I was assisting Mr Roberts with a request that he had but I had no reason to believe that the work wasn't being carried out and - - -

- 10 Did you feel yourself beholden to Mr Roberts in some way did you?
---Absolutely not.

Well, he had been the introduction you'd had to Sydney University which had gotten your company a big swathe of work hadn't he?---Yes, he had been the introduction.

He had been the introduction to Macquarie University which had got your company a big swathe of work hadn't he?---Yes.

- 20 So did you regard yourself as beholden to him to do whatever he asked even at the point in time in which you recognised that to be improper, is that the case?---I didn't feel beholden but I thought I would assist him with his request.

- Will you please give your best explanation to this Commission as to why you did what you did at the behest of Mr Roberts at a point in time that you regarded it to be improper?---Um, my best explanation is that ah, due to the past dealings with Mr Roberts and the history and the positions that he held at the Universities, the varies Universities, that he was a person to be
30 trusted, certainly (not transcribable) flags were raised I certainly didn't have any um, there was no major ah, worries so, yeah, I just fulfilled his request.

He, he didn't even tell you what his connection to Management and Professional Services was did he?---No, I understood that they were a subcontractor working on the project that he was in charge of, or they were a company working on a project that he was in charge of.

- Did it ever occur to you that you were becoming party to a fraud on the University?---Absolutely not.
40

But you say that there were red flags raised for you at the point of time that you - - -?---No.

- - - were doing this or none?---There were no, no red flags.

No red flags because whatever Mr Roberts asked you to do you were prepared to do, is that the case?---Not within, not within reason, I mean, no, I wouldn't do whatever he asked me to do.

Now I'd like to take you to a document which is at page 113, it'll come up on the screen before you. Please have a look at that document and could you answer this question. Have you seen that document before?---Yes.

When did you first see that document?---Um, the invoice was issued on 21 December, 2012 to iPath by email.

So you received this document by email did you?---Yes.

10

Do you have a copy of the email under which you received this document?
---Um, yes.

You do have a copy of it?---Um, yes, I would have, yes, yes.

Well, no, do you have a copy?---Yes, yes, I have a copy.

Yes. Have you provided that document to the Commission?---Ah, as far as I know, yes, yes, I have.

20

I'd like to now show you a further document. If I could hand you a copy of it. Now, this is a document that you provided to the Commission today. Is that correct?---Yes, yes.

Where did you locate this document?---Um, on my computer when I was preparing ah, the information for, on Sunday night when I was preparing the information for yesterday.

And it's not a document you'd previously provided to - - -?---No, it's not.

30

- - - the Commission until today? Are you able to explain what that's the case?---Yes. I was um, ah, my, my, my counsel and I were discussing proceedings in the afternoon yesterday afterwards and he had, he requested me to provide some further information on the invoice (not transcribable) invoice um, and I went through my documents and produced this to look at the detail on the invoice and ah, because the invoice that my counsel had had the balance as zero 'cause it had already been paid in our accounting system and then his, my counsel's gone, oh, what's this one, I haven't seen this one before, this email before.

40

Right?---And I've gone, I thought we have seen it, and he realised that we hadn't seen it, it hadn't been provided to the, to, to the ICAC yet.

Now, just turning to the terms of it, it's an email from yourself dated 30 November, 2012, and it's attaching an iPath invoice to Macquarie University for processing. Do you see that?---Yes.

Excuse me. Was this a tax invoice that you prepared and sent to Macquarie University following the request of Mr Roberts that you do so?---Yes, that's correct, on the day that the request was initially made by Mr Roberts.

So would you date the day on which he asked you to render an invoice to the University to be 30 November, 2012?---Yes.

Now, on the invoice it's got an amount of \$10,450, which is the amount that Mr Roberts asked you to invoice for, correct?---Yes.

10

It's got a description there of "WLAN detailed design service." Do you see that?---Yes.

Is that a description that Mr Roberts asked you to place on that invoice? ---No, it's a default um, description from our accounting system, it's one of the pull-down, the first pull-down selection.

20

So at the time that you sent the email to Macquarie University for them to process, that was the description of the services that had been provided to the University. Is that correct?---Yes.

And at the point of time in which you placed that description on that invoice, had you been told by Mr Roberts what was to be inserted as a description of the work that had been done?---No, no, I hadn't received any invoice or detail.

He hadn't described to you in your conversation the nature of the work that had been done - - -?---Yes, the - - -

30

Or sorry, the nature of the work that was still being done by the company known as Management and Professional Services?---Yes, it was just a description of work to do with the data centre.

I see. So you took it upon yourself, did you, just to select from one of your defaults as to what should go on the invoice?---Yes, yeah.

40

Now, what happened in relation to the processing of this invoice at Macquarie University after you submitted it on 30 November, 2012? ---Um, then you'll see on - I got a call from Brett Roberts saying that I need to cancel that invoice 'cause there wasn't necessary required information on it um, it wasn't associated with a formal quotation or a purchase order, so I requested for the invoice to be cancelled.

I see. So he called you after 30 November to tell you that there was a problem with it. You had copied him in on the email that you sent to the accounts department?---Yes.

And he told you it couldn't be processed and that you needed to cancel it. Is that correct?---Yes.

So then if we turn over the page to page 1097 you'll see there that there's an email from you to invoices at Macquarie University, copy to Brett Roberts and also Mr Moorfoot and yourself in which you requested that the invoice be cancelled?---Yes.

10 That was an email that you sent on the instructions of Mr Roberts. Is that correct?---Yes.

Now, when you were told by Mr Roberts that it couldn't be processed in the form that you had submitted it, did he say anything further to you about what needed to be done to ensure that an invoice would be processed?--- We'd have to raise a um, the standard process, had to raise a statement of works with a description of what was required and then that would go through the um, the Macquarie University process for raising a purchase order and that.

20 And so he had told you that before 11 December, 2012?---Ah, yes.

Did you then commence to provide such a statement of works to the Macquarie University to enable an invoice to be raised - - -?---We were - - -

- - - in the usual way?---We were sent a um, an invoice from um, MAPS at that stage, the one that we saw previously and that formed the basis of the statement of works with the product – with the description of services that were provided to the – so we received the invoice from MAPS. We then created the statement of works with the product – the service description and the amount.

30

Did Mr Roberts say to you look, hold off on doing anything more about this invoice. What I'll do is I'll arrange for Management and Professional Services to send you an invoice which would have a service description that would then enable you to take your further steps, did he, did he say something to that effect?---Yes, something to that effect, yes.

And he said that to you at the point in time before 11 December when you cancelled that invoice?---Yes, yeah.

40

Now you say – just pardon me for a moment. Do you have a copy of the email that you, you say you received the Management and Professional Services invoice, do you have that with you now?---Um, yes. Um, I may.

Would you be able to provide - - -?---Yes, yeah.

- - - that document to me please. Thank you. And, Commissioner, I'll just note for the record that the pages that I handed to Mr Temmerman in the witness box are pages that are going to be inserted on the back of volume 5.

THE COMMISSIONER: Ah hmm.

MR McGRATH: And they are numbered accordingly at the top of the page. So four pages from 1095 through to 1098.

10 THE COMMISSIONER: Yes.

MR McGRATH: Now, you've handed to me an email dated 21 December, 2012 from the email address of Management and Professional Services addressed to you and which it says "Please find attached Management and Professional Services invoice" and from a Mr Christopher Killalea?---Yes.

Now, did you speak to Mr Killalea after you received that email from him about the invoice?---No.

20 Why not?---Ah, the work had been completed. No.

Well, who had told you the work had been completed?---Well, Mr Roberts said that the work had been completed sometime earlier by this stage when -
- -

Well, that's - - -?---Yeah.

I'd like to find that out?---Yeah.

30 Because I think you said on your first communication with Mr Roberts you - and you date that as being 30 November, 2012?---Yes.

He told you that the work was in the process of being completed?---That's right.

And was based on that instruction that you rendered an invoice to Macquarie University - - -?---Yes.

40 - - - knowing that the work hadn't been completed?---Yes.

At what point in time did Mr Roberts say to you that the work had been completed?---When the invoice was, when the invoice was being issued the work will be completed, the invoice form MAPS at that stage.

So when do you say that the Mr Roberts said to you that when an invoice is issued from Management and Professional Services the work will have been completed?---Um, in the middle of December, approximately that time.

So after 11 December - - -?---Yes.

- - - 2012?---Yes.

Sometime after you spoke to him again?---Yes.

10 What did he say to you as best as you recall?---Um, that when the invoice would be issued I need to ah, the work will have been completed. I need to issue the statement of works and then get the um, standard process for Macquarie University purchasing under way.

Now did it trouble you to see that attached to the email of 21 December was a tax invoice dated 30 November, 2012?---Yes, there was, the dates aligned with the initial um, discussions with Mr Roberts.

But it was at a time when you knew from what Mr Roberts had told you the work hadn't been completed?---Yes, the work – that's correct, I thought the work was underway, not completed.

20 And you were being sent an invoice dated 30 November three weeks after its date. Did that trouble you?---Ah, not greatly, no.

Now do you understand what work had been done as described in the services description part of the invoice that was sent to you by Management and Professional Services?---No, I'm not that familiar with the terminology, it's not our core business.

30 Well, I'll bring page 113 up before you on the screen. You'll see the services description there. Is that work of a sort that you understood what it meant?---Um, I'm not 100 per cent sure what that actually meant, I know what the acronym network addressable storage means and I knew that work was being carried out in the data centre at the University at the time when speaking with other technical representatives in the University on my day to day dealings with my normal work but I wasn't – no, I don't know exactly what that means.

And work of that sort's never been done for iPath has it?---No.

40 Has iPath ever had any work done for it by Management and Professional Services?---No.

And you knew that the person who was representing themselves to be Management and Professional Services was in fact a gentleman called Christopher Killalea?---Only from the email ah, correspondence, yes.

And he gave you from that email both his telephone number and his email address didn't he?---Yes.

Why did you decide that you didn't need to contact him to say to him could you please confirm what's going on here?---No, I assumed that because the work was completed, Mr Roberts advised the work was completed that the work was completed. I didn't see any need to contact Mr Killalea directly.

What material did you have to indicate to you that in fact Mr Roberts had any involvement in the work that was contained in the service description of this invoice?---That Mr Roberts was involved?

10 That Mr Roberts had any, any knowledge of it?---Um, none, it was a matter that I didn't have any actual information regarding it.

You knew of no connection between him and Management and Professional Services, is that right?---No, oh, yeah.

Yes. You knew him to be an employee of Macquarie University?---Yes.

20 You knew Mr Killalea to be the person from Management and Professional Services who was dealing with the matter?---And he was the person that sent me the invoice, yes.

And you took just Mr Roberts' word for everything to do with the raising of an invoice by your company in this case didn't you?---Yes, I did.

And then what did you do next after you received the invoice from Mr Killalea dated 30 November, 2012?---Ah, I raised a, an invoice to Macquarie University for the same amount.

30 Well, you didn't actually raise an invoice immediately did you?---Oh, sorry, a statement - - -

I'll take you to page - - -?--- - - - a statement of works, a um, a, yeah, sorry, apology.

Page 119 will come up before you and you'll see this is a document on iPath letterhead and it's dated 9 January, 2013. Did you create this document?---Yes.

40 When did you create it?---On the date shown on the top of the document, 9 January, 2013.

Who told you that you should address it to the attention of Brett Roberts?---Brett Roberts did.

How was that email, how was that document sent?---By email.

Who was it sent to?---Brett Roberts.

And when was it sent?---On 9 January, 2013.

And where did the subject name on it “Consultancy services – storage consolidation” come from?---From the ah, MAPS invoice.

And where did the amount of \$9,500 ex GST come from?---From the MAPS invoice.

10 Now if we turn over the page to page 120 where did the description underneath the heading “Executive summary” come from?---From the MAPS invoice.

So you were the one who summarised the words to that?---Yes, I think I copied them directly from the invoice.

Does iPath do any of the sort of work that’s described under that executive summary?---No.

20 Does iPath do any work of any sort of storage consolidation projects? ---No.

Now if we turn over to page 121 you’ll see there that the commercial conditions are in fact relating to the University of Sydney consultancy project services?---That was a template error, I would have used the template from another project and I didn’t remove the University of Sydney and replace it with Macquarie University.

30 I see. Now you’ll see under the, the box that’s headed “Commercial conditions” it says “Project program”, do you see there, the cursor’s beside it?---Yes.

And it says the project program is two weeks?---Um, again, that would have been a default value.

40 Well, who told you that it was most appropriate to put two weeks in there for a project program on this project?---I wouldn’t have, I wouldn’t even have checked that. To be honest with you we, a lot of, a lot of this information is um, we don’t change it that often in that commercial conditions um, table.

Well, you must turn your mind surely when you issue a document of this sort which is, it’s an important document isn’t it, isn’t it?---Yes, it’s a quotation.

You, you understand it to be the precursor to being awarded work by the University, is that correct?---Yes, it’s ah - - -

You understand it to be an essential precursor to being paid on that work by the University don't you?---Yes.

So you needed to ensure that whatever you put on that document you turned your mind to before it was submitted didn't you?---Yes, I should have.

But you didn't in this case is that what you're saying?---No, I didn't, didn't in this table, no.

10 Now you also in relation to the third item down under "Commercial conditions" it says "Nominated subcontract" and you have "No" as the answer in relation to that, do you see that?---Yes, yes, I did, yes.

Did you turn your mind to whether or not you should complete that yes or no?---No. Well, as I said earlier this table I, I wouldn't have, we don't regularly look at the information contained in there, we should.

Now on page 122 if we turn to that one you'll see at the bottom of the page it's got your name on it?---Yes.
20

Did you place your name on this document?---Yes, it's a – yes.

Yes. Did you speak to anyone at Macquarie University other than Mr Roberts about this invoice or the payment of it?---Um, yes, it's – when – this is the statement of works but the invoice associated with this, yes, it was issued to Macquarie's invoicing department, the, the procurement department or sales department so um, Katie Whiting is the person.

Yes. Did you, did you speak to her about the submission of this document?
30 ---No.

Did you speak to her about the submission of any invoice that came after this document?---No, I didn't speak to her about it, no.

Why was that?---Ah, I didn't see any requirement to do so.

Now you knew that by this letter you would be telling Macquarie University that iPath had done or was going to do the work that was described in the executive summary didn't you?---That's right, yeah.
40

And you knew at the point of time that you submitted this letter that iPath hadn't done that work and was not going to do it either didn't you?---Um, at this point in time I was under the impression that – that's, that's correct, iPath wasn't going to do work, it was going to subcontracted, that's right.

So you knew this letter to be false didn't you?---Um, now I do, yes.

Well, you knew - - -?---Yes, yes.

- - - then, Mr Temmerman?---Yes, that we weren't going to, yes.

Yes. But no, no, you knew it was false didn't you?---Yes.

And you thought that iPath would be paid on the invoice you submitted to Macquarie University that would follow this letter, didn't you?---Yes.

10 And you knew that was the case when iPath had absolutely no entitlement to be paid on the invoice, didn't you?---We didn't, yes, that's correct, we didn't actually do the work, yes.

And you knew at the time that you prepared this letter that it was quite improper thing for you to be doing, didn't you?---Um, no, I didn't think it was improper at the time, absolutely not, no, I didn't.

20 Well, you tell me how you reached the conclusion that it was not improper at that time?---Um, okay. I, I was under the impression that the work had been completed by, by the, the MAPS party and that um, we were invoicing for work that had, was completed, so - - -

You were invoicing under the name of iPath - - -?---Yes.

- - - representing to the University that iPath had done this work, weren't you?---Yes, that's correct.

That's improper, isn't it?---Yes, it is.

30 And you knew at the point of time in which you were drafting this letter and submitting it to the University that it was a quite dishonest letter, didn't you?---Um, yes.

Now, I now want to take you to a document at page 129, and you'll see this is a Macquarie University purchase order. Now, you received that purchase order from Macquarie University, didn't you?---Yes.

It came to you by email?---Yes.

40 And it's addressed to your attention?---Yes.

When did you receive that document?---Um, that would have been 17 January, 2013.

And who sent it to you?---Um, it comes from the Macquarie purchasing department.

And what was the significance of this document in your mind at the time you received it?---Um, that the Macquarie University had um, raised a

purchase order, so it's, that means the Macquarie University has approved the work.

And it's in your mind isn't it an acceptance of the fact that Macquarie University would be paying on any invoice with respect to the work that you had submitted in the statement of works?---Yes.

That's right?---Yes, that's correct.

10 And it told you that the systems of the University recognised that they, that you should in fact render an invoice to them for that work. Is that right?
---Yes, that's correct.

Now, I'll show you page 114. Now, did you create the iPath invoice at page 114?---Ah, yes.

And did you submit it to Macquarie University?---Yes.

20 When did you submit to Macquarie University?---Um, the invoice date, 17 January, 2013.

And how did you submit it?---Um, by email.

And you knew that by this invoice you were telling Macquarie University that iPath had done the work that had been described in the statement of works, didn't you?---Yes.

30 When you knew it was a case that iPath hadn't done that work?---That's correct, yes.

So you knew the invoice was false, didn't you?---Um, on that premise ah, that, yes, but at the time I, yes.

Well - - -?---I didn't, I didn't know at the time that this was false, I had no inkling that any of this, what I was doing was improper um, I was just following the procedure at this stage that the purchase order had arrived um, time to invoice the work, I'd been advised that the work had been completed by Brett Roberts and I was following the procedure.

40 Did you just go into autopilot did you, in relation to this? Mr Roberts just said, look, you're going to get an invoice, can you render one to the University, you'll get paid on it, you just took whatever he said to you as being what you should follow in relation to this whole episode, did you?
---Yes, I did.

And you knew at every step that the only way in which Mr Roberts' instructions could be carried out was with your cooperation. That's right, isn't it?---Ah, yes, yeah.

And at every step didn't you realise that iPath was making the representations to the University that first it had done the work, that's correct, isn't it?---Ah, yes.

And that secondly it was entitled to be paid for that work?---Yes.

And you knew all of those things at the time that you were doing these things, didn't you?---Yes.

10

You weren't on an autopilot at all, were you?---No um, no, I wasn't on autopilot.

You knew at each step of the way in this that what you were doing was wrong, didn't you, at the time?---Yes. I knew it was irregular, yes.

20

And you knew didn't you at every step of the way in this procedure that what you were doing was dishonest, didn't you?---No, it, it didn't – otherwise I wouldn't have – if I thought it was dishonest or, or illegal I wouldn't, wouldn't have done it. I've never done anything like this before, so no, I didn't know it was dishonest.

What did you do to satisfy yourself that the work that was described in this invoice had actually been done for anyone – actually been done by anyone for Macquarie University?---I only took Brett Roberts on his word.

And you never communicated with any other person about the whole subject of this work and whether it had been done?---No, I didn't.

30

Now, I want to show you a Commonwealth Bank statement which is at page 130. Now, you'll recognise that to be a Commonwealth Bank statement for iPath - - -?---Yes.

- - - for the date range 17 December, 2012 to 16 March, 2013?---Yes.

Is that a bank statement that comes to you in the course of your business?---Um, ah, yes, it would be going to my business partner, but yes, yes.

40

And if we turn to page 134 you'll see a highlighted entry for 14 February which is a credit in your account of \$10,450 from Macquarie University?---Yes.

You see that entry. Now, that's a record of iPath receiving full payment on the invoice dated 17 January, 2013, which you had sent to Macquarie University, isn't it?---Yes.

And on the page directly under that entry is a – just going back up – on that page, directly under on 15 February is a transfer of \$10,450?---Yes.

A transfer out?---Yes.

Did you make that transfer yourself?---Yes.

Who was that transfer to?---To um, to MAPS, to the account on the um, the invoice.

10 Why did you make that transfer?---For payment of the invoice, the MAPS invoice.

Did you communicate with anyone at MAPS about, about, Management and Professional Services about making that transfer?---Yes. An email was sent um, advising that they'd been, they'd been paid.

And who was the email to?---To ah, Christopher Killalea.

20 When was the email sent to Mr Killalea?---Ah, would have been on the 14th, the same day that the transfer was made.

Do you have a copy of the email that you sent to Mr Killalea to advise him of the transfer?---Ah, yes.

Do you have it available to you?---Yes.

And could you provide it to me, please?---Yes, yeah.

30 Thank you. Did you have any further dealings with Mr Killalea of any sort after the date of this email?---No.

And apart from speaking to Mr Roberts at any point – sorry, I'll withdraw that. Apart from speaking to Mr Roberts, was the only indication that – sorry. Apart from speaking to Mr Roberts there was no other indication from anyone that any of the work described in the Management and Professional Services invoice had been completed. Is that right?---That's correct.

Have you ever done anything like this in your business career?---No.

40 Have you ever done anything like it since?---No.

Now, tell me this, Mr Temmerman, have you ever offered to pay Macquarie University the amount of 10,450 by way of a refund because of your involvement in these events?---No.

Why is that?---I – until – I don't think that ah, iPath benefited from, from this and we didn't um – so we didn't benefit from it so there's um – and we

didn't certainly keep any of the money or – so there's no need to refund the money to the university.

But you understood at the time that none of this could have occurred without your co-operation. Is that correct?---Yes.

And you understand now looking back on all of these events that what was happening here was the perpetration of a fraud, wasn't it - - -?---Yes.

10 - - - on the university?---Now I Understand that very clearly, yes.

Yes?---Yeah.

And why would you not in those circumstances have made an offer to Macquarie University to repay the funds?

MR TAYLOR: I object to the question, Commissioner. How does that assist you in relation to your terms of reference?

20 THE COMMISSIONER: Well, I suppose it just goes to reinforce whether or not he appreciates the fact that he was party to such an arrangement but, anyway.

MR TAYLOR: Well, he's conceded that already.

THE COMMISSIONER: Yes, all right. We might move on.

Mr Temmerman, I'm just interested to know this, at the time that Mr Roberts suggested that you do this to assist him or to assist MAPS, I think the explanation he gave you was that this was a company or a business that
30 wasn't yet on the preferred supplier panel for the university. That was the explanation wasn't it?---Yes.

Well, you would have understood, wouldn't you, from your dealings with other institutions such as this in the past that one of the reasons that they have a preferred supplier panel is in part to ensure that they're dealing with reputable people. You understood that?---Yes.

40 So by doing this at Mr Roberts' behest you were bypassing those procedures that the university had in place to ensure that they weren't going to be the victim of a fraud?---Yes. The um, the – sometimes large organisations aren't as reactive I suppose in being able to bring other people on as consultants to be able to assist them with, with work and I was under the impression that this work needed to be done quickly and that I was assisting in that fashion to be able to enable this to occur in a timely fashion. So but, yes, I, correct, yes.

MR McGRATH: Really the thing that you were enabling to occur was, rather than have the work happen, it was the payment that you were

enabling to occur wasn't it?---Um, I thought that the – that I was enabling the work to occur not just the payment but that's correct, yes. By iPath doing what we did, we did enable the payment to occur, yes.

Well, the only thing that you did do was to enable the payment to occur isn't it?---Yes, that's right, yeah. Yeah.

10 It was the only part in this scheme that you were involved in. Is that right?
---That's right. That's right. That's why we didn't take any um – we weren't – didn't do any work (not transcribable) we didn't take any um, benefit from any ah, money out of the amount because we didn't do anything with the, with the project.

Commissioner, I have two documents which are the originals that were provided to me.

THE COMMISSIONER: Yes.

20 MR McGRATH: I'd like the opportunity to have copies taken so that I could then have them inserted and tendered.

THE COMMISSIONER: Yes, certainly.

MR McGRATH: But otherwise I don't have any further questions for Mr Temmerman.

THE COMMISSIONER: All right. Thank you. Does anyone have any questions of Mr Temmerman?

30 MR ALEXIS: Commissioner, in light of the questions that just fell from you we don't have any further questions.

THE COMMISSIONER: All right. Thank you.

MR LEIGHTON-DALY: No, thank you.

MR CHESHIRE: No, thank you.

40 THE COMMISSIONER: Nothing?

MR TAYLOR: Just briefly if I may, Commissioner.

THE COMMISSIONER: Mr Taylor, yes.

MR TAYLOR: Mr Temmerman, I think you've told the Commission that you weren't a personal friend of Mr Roberts. Is that correct?---That's right, I wasn't.

How did you consider him then in November, 2012 when he approached you to undertake the task in relation to the invoice?---Um, I considered him a highly regarded professional person. I'd worked with him in three different universities over five, six years at that stage. Ah, I worked on projects that he was associated with and um, you know, I had high regard for him.

10 Had you been made aware at that stage of any adverse notice about any of Mr Roberts's behaviour in those - - -?---No, I didn't know any of it.

- - - in those employments at the three various universities?---No, not at all. I didn't know anything until I was requested to come to the um, closed hearing.

Is it fair to say that you trusted him?---Yes, yes.

Yes, nothing further. Thank you, Commissioner.

20 THE COMMISSIONER: Thank you, Mr Temmerman. We just need to hold onto those original documents for the time being. They'll be returned to you in due course. Otherwise you're finished here today and you can step down. You're excused.

THE WITNESS EXCUSED

[3.05pm]

30 THE COMMISSIONER: Yes, Mr McGrath.

MR McGRATH: I'd like to call Brett Roberts.

THE COMMISSIONER: Yes, take a seat, Mr Roberts. Mr Leighton-Daly, I'm assuming that you've explained to your client the effect of a section 38 order?

MR LEIGHTON-DALY: Yes. And a declaration is sought. Thank you, Commissioner.

40 THE COMMISSIONER: All right. Thank you. Mr Roberts, I just need to ensure that you appreciate that the order that I can make protects you from the use of your answers against you in civil and criminal proceedings but does not protect you if it should be find you have given false or misleading evidence before the Commission. You understand that?

MR ROBERTS: Yes, Commissioner.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by 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

20

THING PRODUCED

THE COMMISSIONER: Do you wish to be sworn or affirmed, Mr Roberts?

MR ROBERTS: Affirmed is fine.

THE COMMISSIONER: Can we have the witness affirmed please.

MR McGRATH: Please state your full name?---Brett Andrew Roberts.

And you're 47 years of age?---That's right.

What's your occupation?---Project manager.

10 And are you currently working?---Yes.

Who are you working for?---I'm doing part-time work with Macquarie Generation.

And whereabouts are you doing that work?---Ah, in Muswellbrook.

And how long have you been doing that work?---Um, for about a year.

20 THE COMMISSIONER: Sorry, what was the name of the organisation?
---Macquarie Generation.

Macquarie Generation?---Yes.

And what kind of business is that?---It's power generation.

Thank you.

30 MR McGRATH: What level of school did you reach, Mr Roberts?---Ah,
high school.

You went to the end of high school, you obtained a Higher School Certificate?---That's right.

And have you got any other academic qualifications other than the Higher School Certificate?---No.

Did you start a course at the Newcastle College of Advanced Education?
---That's right.

40 What was the course that you started?---Ah, it was Associate Diploma in Computing Studies.

And did you finish that course?---No, I didn't.

How long into doing that course did you cease doing it?---Um, about 18 months in I – the work, the work experience semester continued into employment.

I see. So you – how long did you need to do if you were going to obtain the diploma?---Probably another six months.

When did you start that course, was it immediately - - -?---Yeah.

- - - after leaving school?---Yes.

And you stopped doing it about, how long into it?---1987, 1988.

10 Now, it would be false to say, wouldn't it, that you hold an Associate Diploma in Computing Studies from the Newcastle College of Advanced Education?---Yes.

And it would be false to say that you hold a Bachelor of Science in Computing from the University of Newcastle wouldn't it?---Yes.

I'd like to show you a document, and it's at page 2. It'll come up on the screen before you. You recognise this to be your curriculum vitae don't you?---Yes.

20

It's a document that you prepared, isn't it?---Yes.

When did you prepare that document?---Um, I would say that was 2011.

And you've prepared similar documents on previous occasions?---Yes.

You understand that a curriculum vitae is a document that you submit to prospective employers when you're applying for jobs with them, don't you? ---Yes.

30

Now, we'll turn to page 7. Under the heading "Education," you'll see there it states the words, "Associate Diploma in Computing Studies, Newcastle College of Advanced Education."?---Yes.

So you have stated in your CV that you hold that Associate Diploma, haven't you?---Yes.

And you don't hold that diploma, do you?---No.

40 It was dishonest for you to submit a CV to anyone with that statement contained in it, wasn't it?---Yes.

You have stated in your CV that you hold a Bachelor of Science in Computing from the University of Newcastle, haven't you?---Yes.

You don't hold that Bachelor qualification, do you?---No.

It was dishonest for you to submit a CV with that statement in it, wasn't it?

---Yes.

Have all of the CVs that you have prepared for the jobs that you have taken at the University of Newcastle, the University of Sydney and Macquarie University, all made statements that you hold an Associate Diploma and a Bachelor of Science in the form that's set out on this CV?---I don't know.

When did you first start preparing CVs making statements that you have an Associate Diploma and a Bachelor of Science in the form set out here?

10 ---Um, I couldn't say exactly.

Would it be more than the last 10 years?---Yes.

Would it be more than the last 15 years?---I don't think so.

And you understand that when you submit such a document that it is to be used by the prospective employer to decide whether or not they wish to engage your services, don't you?---Yes.

20 And it's a serious solemn document that you need to get right, isn't it?
---Yes.

So it would be the case, wouldn't it, that each occasion on which you've submitted such a document to a prospective employer you understood that you were providing them with a dishonest document, don't you?---Yes.

Now, are there any other industry or professional qualifications or memberships that you hold, other than what's stated on this CV?---No, and they've lapsed.

30 They've all lapsed, have they?---Yeah.

Have you made statements that you hold those professional memberships at points of time when they've lapsed but giving an indication that you still hold them current?---Yes.

And that's a quite dishonest thing to include on your CV, isn't it?---It is.

40 Now, apart from the false parts that we've identified just now under Education and also Professional Memberships, are there any other parts of your CV which are false?---No.

So are we to take it that the material that's contained in this CV – and if we go back to page 2, please, if we go down under the heading, "Professional Experience," and you'll see there under, "University of Sydney," you've written an entry of work that you did for University of Sydney?---Yes.

If we go over the page there's a heading, "NASDAQ OMX," and then further down is an entry under the heading, "University of Newcastle," and then if we go over the page, 4, "Unisys Global Outsourcing" is the heading, then underneath that is, "Austrapay Limited," and then over the page is "Robcon Australia," and also "ExxonMobil Corporation," and then going back over, going over the page is the "Australian Jockey Club" and the "Sydney Turf Club." Underneath that is the heading, "Department of Health." Is that a full and complete listing of all the positions that you had held up until the point of time at which you completed your services at the University of Sydney in 2011?---Yes.

And none of the parts there are false. Is that correct?---That's right.

Now, we'll take the CV as it is to take us up to the end of your time at the Sydney University. Where have you been employed after 2011?---Um, after the University of Sydney I was employed um, at Hudson in Newcastle.

And what were you doing there?---Ah, practice manager.

20 And what is Hudson?---Recruiting and consulting.

And after you worked at Hudson what did you do?---Went to the University, sorry, Macquarie University.

And what were you doing at Macquarie University?---Experience Director.

And how long did you spent at Macquarie University?---About 18 months.

30 And after you finished working at Macquarie University, what did you do?
---Um, what did I do, picked up work with ah, Macquarie Generation.

And how long were you working at Macquarie Generation at that time?
---Um, until now.

Have you worked for anyone else in the period since you worked at Macquarie University?---New South Wales Trade and Investment.

40 And what were you doing at New South Wales Trade and Investment?
---Ah, helping with um, some governance work around changed management.

And how long did you work at, in that job?---About nine months.

Was it full-time work that you were involved in there?---Yes.

So there's been a period of time in which you have worked for Macquarie Generation?---Yes.

And also the Trade and Investment?---Yes.

Is that, were they interchangeable periods?---Yes.

They have been. So you've worked for one of them and then worked for the other and - - -?---Yes.

- - - and you've been doing different consultant - - -?---That's right.

10 - - - work across the time?---Yeah.

Have you been working for them at the same time also?---Yes.

Now, your employment at Macquarie University was terminated after a misconduct inquiry, wasn't it?---That's right.

The University found you to be guilty of misconduct, didn't they?
---That's right.

20 Now, you're married, aren't you?---Yes.

[REDACTED]

30 And your home is in Newcastle. Is that correct?---Yes.

When did you start residing in Newcastle?---About ah, 2003.

And whilst you've been residing at Newcastle there have been periods of time in which you have been working in Sydney. That's correct?---That's correct, yeah.

40 When you've been working in Sydney have you been commuting from Newcastle to your Sydney workplace?---On occasion.

When you haven't been commuting, what have you been doing?
---Um, staying, initially I stayed in a flat at Hornsby ah, and then ah, I was offered the opportunity to stay at ah, Christopher Killalea's house.

And other than Mr Killalea have you been staying at any other regular places?---No, not really.

Now, what are your hobbies?---Um, motorcycling.

And do you own some motorcycles?---I do.

What are they?---Ah, Ducati motorcycles.

Just one?---No, two.

Two?---Yeah.

10 And what sort of value are they?---Um, one of them was six and a half thousand dollars and the other one was ah, \$35,000.

\$35,000?---Yeah.

That's a significant sum of money to be spending on a motorcycle, isn't it?
---That's what they cost, yes.

Now, you race a motorcycle, don't you?---I did for one season.

20 Just one season?---Yep.

Was that racing on the \$35,000 motorcycle?---No.

Was it racing on the \$6,000 motorcycle?---Yeah, yeah.

When was the last time that you raced a motorcycle?---2012.

And you only raced it during the course of 2012. Is that right?---That's right, yeah.

30

And how often did you race the motorbike?---Um, roughly once a month, maybe once every two months.

And where did you race it?---Um, Eastern Creek ah, Wakefield Park um, they were the only places I went to.

I see. And when you race the motorcycle would you stay overnight near the, near the track that you were racing on?---Yes, yes.

40 And did you go there with your wife and children?---No.

Racing a motorcycle is quite an expensive past-time isn't it?---It can be.

So during the course of 2012 were you spending quite a significant amount of money on your motorcycle racing hobby?---No.

Why would that be the case?---Well, the, the class that I was in didn't have stringent requirements for multiple sets of tyres and things like that so I

didn't have to buy that, I used a set of tyres the entire season. I really had to put, all I had to do was put the entry forms in and put fuel in it.

And what about mechanical needs of the bike?---Um, I could do most of those. Ah, it was ah, one major service before it went to the track um, and then the rest of it, it's really just put fuel in it.

I see. So how much do you estimate that you would have spent during 2012 on your motorcycle racing hobby?---Probably between seven and \$10,000.
10

I see. When did you buy your \$35,000?---Where?

When?---Oh, when. Ah, 2007, 2008.

But that's not a motorbike which is capable of being raced, is that correct? ---Oh, it is, it's just it would be wrecked.

I see. So the \$35,000 motorbike is something that you just ride around the streets is it?---Yes.
20

Right. Do you go on holidays on your motorbike?---No.

So how often would you ride that one?---Not very often.

In times when you're not racing your motorbikes what sort of expenditure are you, are you spending on your motorcycle hobby?---Ah, negligible.

So would it be something that you would do say once a month or once a weekend, what's the, what's the sort of - - -?---Probably less than once a, once a month, maybe once every two months.
30

I see. And what sort of expenditure would you estimate in a year you would spend on just your normal motorcycle needs?---Oh, not very much, I haven't done anything in the last couple of years.

What, what other major expenditure do you have in your household?---Just the bills.

Do you have a mortgage?---Yes.
40

What's the mortgage that you've got?---House, the mortgage for the house.

Yes. Does your wife work?---No.

Has she ever worked?---Yes.

When was the last time she worked?---Ah, two thousand and - early 2000's.

Early 2000 but since then she hasn't worked?---That's right.

You've been the sole income earner in the household?---That's right.

Now you're familiar with a company called Robcon Australia Pty Limited aren't you?---That's right.

That's a company that you and your wife own?---Yes, owned.

10 And it was set up in September of 2005?---Ah, I think it was re-registered in 2005.

Oh, I see, it had been registered at an earlier point in time?---Yes.

Now your – well, is Robcon, Robcon Australia Pty Limited still an active registered company?---No.

When did it cease to be registered?---About a year ago.

20 I'm sorry?---About a year ago.

About a year ago. What business – I withdraw that. When it was in operation you were the sole director of it weren't you?---That's right.

And you owned it 50/50 with your wife?---Yes, correct.

What business did it do while it was operating?---It was set up to pick up IT consulting work but that didn't happen.

30 It didn't happen?---No.

Has it done, has it ever traded?---No.

Not at all?---No.

You mentioned in your CV - - -?---Yeah.

- - - that you have worked for Robcon Australia - - -?---Yeah.

40 - - - in the period from 1999 to 2000?---Yeah.

And you describe in your CV that it's a partnership between yourself and three other IT professionals - - -?---Yeah.

- - - providing contract consulting in all facets of IT including infrastructure, project management, SDLC, hardware implementation and (not transcribable), you say that in your CV?---Yes.

And you still adhere to your answer that Robcon Australia Pty Limited has never traded?---Yeah, we didn't get any work. We did lots of, lots of consulting but didn't pick up any work out of it.

Yet you have placed in your CV, excuse for, for a – to explain a period of two years, '99 and 2000 - - -?---Ah hmm.

- - - that you were working for Robcon Australia?---Ah hmm.

10 You've made that statement in your CV?---Yes.

Is that statement false?---No.

You weren't doing any of the work that you've described under that heading in your CV during that period were you?---Absolutely.

I thought you just told me that you didn't do - - -?---We didn't get paid for anything, we, we spent, I spent an inordinate amount of time putting proposals together, going to meetings, trying to generate work but nothing
20 happened, I ended up um, being funded by the money that was paid to me when I left the mine.

Now could you address this question?---Ah hmm.

Were you giving the – were you wishing to give the false impression by the statement in your CV under the heading “Robcon Australia” that you had been doing the work that is described there for two years?---No.

Well, it doesn't say going to meetings, trying to get work, putting in
30 proposals, it actually says that it was a partnership between yourself and others - - -?---Ah hmm.

- - - which provided contract consulting?---That's right.

Well, you just told me that you didn't provide any contract consulting to anyone, never got any work, that's what you told me?---That's right, yes.

So it didn't provide any contract consulting to anyone did it?---Ah, yes, well, I did but I didn't get paid for it.
40

Is that a serious response to the question I asked you?---Yes.

Which is true, did it do any work or did it not do any work?---It did work.

And it didn't get paid anything for any of that work across a two year period, is that what you're saying?---It wasn't two years, it was around eight months, six, eight months. Across those two years.

Oh, now across those two years. Is that, is that what you're saying?---Yeah, it was from the end of '99 to, into 2000.

THE COMMISSIONER: Does the description under the subheading "General manager" also apply to the activities that are attributed to Robcon Australia?---Yes.

MR McGRATH: Were you – I'm sorry, sorry.

10 THE COMMISSIONER: No, go ahead, Mr McGrath.

MR McGRATH: Well, you've described yourself there as "spearheaded a team of dedicated IT professionals for newly consolidated project management office to support client business objectives" and it goes on. Is that the work that you did during the course of 1999 and 2000 for Robcon Australia?---No, I was mainly writing proposals and doing client visits to try and get work.

20 THE COMMISSIONER: Well, just, just while you're on that point, Mr Roberts, if you go to the bottom it says that there were recommendations to CEO, department heads et cetera resulting in \$7.6 million worth of savings"?---Yeah.

I don't know how you could interpret that any way other than that actually occurred by way of work that was carried out by Robcon. Is that right or wrong?---That's right.

30 Well, how is it right? How did you save somebody \$7.6 million and not get paid a cent for it?---By recommending that they did, took another path in the way they were deploying. It was with a power station.

Go on.

MR McGRATH: It looks to be work of fiction doesn't it, Mr Roberts?
---No, it's not.

So that's true - - -?---Yeah.

40 - - - and you adhere by your evidence that you did all of the work described here - - -?---Yeah.

- - - and you got paid nothing, is that right?---That's right, yeah.

Were you the sole person who did the work - - -?---Yes.

That you say that Robcon undertook?---Yes.

Were you the sole employee - - -?---Yes.

- - - of Robcon? But you say that you were spearheading a team of dedicated IT professionals in that section of your CV don't you?---That's right.

And you're the only person who's doing work for Robcon?---Initially the discussion was between myself and some other mates about forming the organisation together but when we couldn't get work we just went separate ways to go and actually get ah, real jobs.

10

No, no, no, no, Mr Roberts. You're saying here you spearheaded a team of dedicated IT professionals?---Yeah.

And you're now telling me you just had a discussion with some mates about possibly doing something and then you went your separate ways?---That's right.

20

So that statement, the statement that's contained there that you spearheaded a team of dedicated IT professionals for a newly consolidated project management office, that's just rubbish isn't it?---No, I don't think.

Well, what's true, did you spearhead the IT professionals or did you nothing other than have a chat and go your separate ways as a bunch of mates?---No, the plan was that we would work together, we needed a company to do that and that's why I set it up and instead of having four or five of us doing the same thing separately and then we just went our separate ways because it was too hard to get the work.

30

But this doesn't say we plan to spearhead a team of dedicated professionals this says that you did it.---I agree.

And it's rubbish isn't it?---In that context.

Yes, it's a work of fiction isn't it?---I don't think so.

Do you understand the difference between fact and fiction Mr Roberts?---I do, yes.

40

What are you, in your mind, regard as something which is fiction?---Something which is not true.

And what do you understand to be fact?---Something that is true.

Are there other parts of your CV that we can go to which are works of fiction like you've just agreed with me that that part of your CV is?---No.

So everything else in there is fact is it?---Yes.

Now the only person, the only people who stood to benefit from any monies that might come into a bank account of Robcon would be yourself and your wife, that's the case isn't it?---Yes.

Now you've said to me that Robcon has never had an active business, that's correct?---That's right.

But it has had a bank account hasn't it?---That's right.

10 Does Robcon still have a bank account?---There's still a bank account, yes.

Yes, is that despite the fact that it's been deregistered as a company?---Yes.

What monies are still going into bank account in the name of Robcon Pty Limited?---Payments from the employment agencies that I'm hired by.

And what payments are going out of that bank account?---Um, bills.

20 And why have you chosen to maintain a bank account in the name of a, what you say, is a deregistered company?---Because it had a chequing account with it and there's no other way to get a chequing account for a St George bank that I'm with and I just left it there, just left the account there.

So you've chosen not to go along to your, your bank and inform them that the account holder of that account doesn't exist anymore, is that what you've decided to do?---I hadn't made a decision I just hadn't done anything.

30 I see. How long have you not done anything in relation to that account?---Quite some time.

Well, it's at least a year, isn't it?---That's right.

According to you.---Yes.

Now, do you know Christopher Killalea?---Yes.

When did you first meet him?---In 2000 at Austrapay.

40 What were the circumstances in which you met him?---Chris was working there with Computer Associates, had been working there for quite some time implementing one of CA's tools, software tools.

And what work were you doing at the point in time in which you met Mr Killalea while he was working for Computer Associates?---I was hired as analyst programmer, myself and two others to build servers and to do the hardware installations of servers.

Now did you do work on the same project together?---Eventually.

What was that project?---It was a batch management tool and it was called Unicentre.

10 What does batch management tool actually mean?---The nature of Austrapay's work is that it takes payment files from third parties like Telstra, gas companies, water companies things like that, anything with a remittance slip on it and it, and the cheques that comes with those remittance slips are sorted on large Unisys machines and the data on those is read optically and the results of the data send a file to each bank to tell them how much their owed by the people who have put the remittance slips in and it tells the remittance slips company so Telstra or water board and those sort of places how much they're going to get from each bank.

20 And what were you actually doing on that project?---Um, when I got to that project I was responsible for the operators who were running the batch jobs that kicked all that stuff off and at that stage it was all being done manually and the premise of the Unicentre product was to automate that.

What was the position you held again at Austrapay?---Analyst Programmer when I started there.

Yes. And what position did you work up to whilst you were working for Austrapay?---Um, operations manager.

That was the highest position you held at Austrapay?---Yes.

30 So when it says on your CV that at Austrapay you were the Director of Information Technology, that's a false statement isn't it?---No, I'm mistaken because I did end up with that role about a few months before the guy that was looking after it left.

Oh no Mr, Mr Roberts, let's be clear about this. I asked you what was the highest position that you ever obtained whilst working for Austrapay and you did not answer me that it was the director of Information Technology. You said that you ended up as Operations Manager, didn't you?---That's right.

40 The Operations Manager is below the position of Director of Information Technology at Austrapay, wasn't it?---Yes.

Is it the case or is it not the case that you occupied the position of Director of Information Technology at Austrapay between the years 2000 and 2002? ---It's correct.

You occupied that position for those two years did you?---No, no, I got to that position when I was there.

See the fact is, you have overstated again on your CV the fact, haven't you?---No, I don't think so.

Now, when you working at Austrapay, what was Mr Killalea doing on the project of the batch monitoring system for file transferred that you've described?---He was the Computer Associates Project Manager.

10 And he was, you were his principle contact at Austrapay weren't you, on the project when you were working together?---Eventually, yes.

And you were the sorry when you were his principle contact from whom he took instruction and direction on that project, weren't you?---Yes.

How long did you work together at Austrapay?---Um, all but a few months. The first couple of months I was there I was doing other work, as I said, and then the rest of the time would have been on that activity.

20 So you would say for eighteen months of the two years that Austrapay was operating - - - ?---Yeah.

- - - you were working closely together with him on that project?--- Probably closely when I first started and until about a few months from the end but they were able to, there were quite a few people involved in that, the shift operators and other technical people so day to day, I would attend project meetings and those sorts of things – pardon me – I would see them there each day.

30 What was the position you held a few months from the end of your time at Austrapay?---I was director then.

So when did you take on the position of director?---When one of the other guys left.

THE COMMISSIONER: Sorry, director of what?---Technology.

MR McGRATH: And when was that, how many months before the end of your time?---Um, I would say probably two or three months.

40 So two or three months before the end of the two year block that you spent at Austrapay, is that correct?---Yeah, yeah.

Did you strike up a friendship with Mr Killalea when you were working at Austrapay?---Yes.

And that friendship was fairly immediate when you were working together with him, is that right?---Not really, our first um, our first meeting together was sort of adversarial and then we developed a relationship over time.

And you went out for drinks, meals and other social events outside of working hours with him didn't you?---Yes.

How frequently were you seeing each other outside of work during the period at Austrapay?---Quite often.

Now, in 2002 Austrapay got taken over by Unisys.---That's right.

10 What was the position that you occupied at Unisys?---I had a few positions there, the first position was Data Centre and Operations Manager, I was pulled out of the Austrapay business and moved out to Wicks Road at North Ryde.

And what were the other positions you held?---Um, from Data Centre and Operations Manager I moved to Operations Manager and then Director of Outsourcing Operations.

20 And did you continue to work with Mr Killalea at Unisys?---Yes, but less closely.

And what was the position – he was still at Computer Associates during the period of time that you were at Unisys?---That's right.

What was his position working at Unisys for Computer Associates?
---Project manager.

30 And were you – was he managing a project on which you were also working?---Um, he was – no, I was responsible for the areas that ah, he was working on projects for.

I see. Were you the person at Unisys who brought Mr Killalea in to work on the projects?---No. They bought the tool and he sort of came from um, CA with him and another guy who was the tech on the, on the project. His name was Raymond Ho and they came across as a package because they'd been doing the work for Austrapay and it was basically the same work that was being done for other out-sourced clients.

40 And were you a person at Unisys from whom he was accepting instruction and direction when he was working on projects at Unisys?---Not at a detailed level.

But people who were reporting to you were the people who were - - -?
---Yes.

- - - giving him instruction and direction?---That's right.

Is that right?---Yeah.

So would you say that you had less of a professional involvement with him at Unisys compared to what you'd had at Austrapay?---Much less, yes.

Yet your friendship continued across the period of time that you worked at Austrapay and into Unisys?---That's right.

A friendship in fact developed to become a stronger one at Unisys than it had been at Austrapay didn't it?---Um, I'd just known him longer I think.
10 We actually spent more time together um, at Austrapay than we did at Unisys.

How frequently did you see him outside of work while you were working at Unisys?---Probably less often than I had at Austrapay so um, I'd probably see – maybe once a week.

I see. Now, were you living in Newcastle and commuting to work in Sydney while you were working at Austrapay?---No.

20 Where were you living when you were working at Austrapay?---Ah, my sister-in-law's at North Sydney for a while then I picked up an apartment – or shared an apartment at Hornsby and then um, then we moved out to North Ryde.

When you say we, you mean your family?---Oh, no, no. Sorry, the – we moved out with Unisys to North Ryde then I commuted.

I see. Now, I just need to work out, where was your family home whilst you were working at Austrapay?---Maitland.
30

Where was your family home whilst you were working at Unisys?---Um, both. I moved while I was working at Unisys.

So when you were working at each of those places you were spending the week in Sydney at the apartment?---Yeah.

Yes?---Yeah.

40 But you were otherwise going home on the weekends. Is that right?
---That's right.

What professional qualities did you consider that Mr Killalea possessed that you were able to observe whilst you were working with him at Austrapay and also Unisys?---Um, significant attention to detail. He's anal about detail.

Is that it?---Ah, well, he's good at project management. Um, he takes good minutes, notes, those sorts of things um, and his documentation is concise.

What personal qualities did you regard him having such that he was to become your friend?---Ah, we shared similar views on lots of things. We had similar personalities in some areas.

Would you say it was correct that you can both be blunt at times?
---Absolutely.

10 Would you say it correct to be that both of you wouldn't suffer fools gladly?
---Um, yes.

But you would regard Mr Killalea to be a highly intelligent man?---Yes.

Is that your assessment of him?---Yes.

Did you know during the course of the development of your friendship that Mr Killalea trusted you?---Yes.

20 And he even appointed you as a trustee of his self-managed superannuation fund back in 2008 didn't he?---Yes.

You understood, didn't you, that by making an appointment of that sort he was placing considerable responsibilities and trust in you wasn't he?---Um, yes.

Because if it came to the point where he needed someone to administer that fund, you were going to be the person that was going to make decisions on his behalf weren't you?---Yes.

30 Now, do you recall that Mr Killalea left Computer Associates in May of 2005?---No, but I knew he left. I'm not sure when.

There was a point in time when he ceased to work at Unisys for Computer Associates - - -?---Yeah.

- - - yet he continued working on Unisys projects. Is that correct?---Um, yeah, I'd say it is.

40 And would you be able to place that as being around the middle of 2005?
---Um, I'm not sure of the timing but I do know that the other projects that he was working on I know they kept him on, yeah.

Now, you were made redundant at Unisys during the course of 2005 weren't you?---Yes.

That was a point of time after Mr Killalea had ceased to work at Computer Associates wasn't it?---Um, I'm not sure.

But he continued to work at Unisys after the point in time when you'd left Unisys. Is that right?---I think so, yes.

Now, in the period from around 2000 when you met Mr Killalea until the point where you left Unisys in mid-2005, did you occasionally stay at Mr Killalea's home in Rozelle?---Yes.

And that involved both weekday and weekend nights?---Ah, weekends very infrequently. Ah, weeknights, yes.

10

Did your wife and children occasionally stay at his Rozelle home - - -?
---Yes.

- - - on weekends?---Yes.

You would come to Sydney for things like birthday dinners and the like - - -?
?---That's correct.

20

- - - where all four of you would stay at the home of Mr Killalea. Is that right?---Not always all four but generally, yes.

And Mr Killalea also visited you at your home in Newcastle didn't he?---A couple of times, yes.

And one of the occasions which he visited you he spent Christmas with your family didn't he?---Yeah, I invited him for Christmas.

30

Why did you decide to invite him for Christmas?---Well um, he had been attending this thing called an orphan's Christmas at Balmain and ah, that struck a chord with me one day and I felt um, that you, you can come along to our place. Um, you know, we - my wife's got a large family, I come from a large family and um, it was just for him to have somewhere to come to. I didn't like the idea of the orphan Christmas.

You felt sorry for him didn't you?---Yeah, I did.

Did you consider that he was probably someone who was lonely?---Yeah.

40

Because he didn't have a partner who lived with him did he?---No, he didn't.

Were you aware of him having any partner during the time that you knew him?---No.

Did you regard him as being someone who was quite vulnerable because of the loneliness that he had in his life outside of his work?---Not really, no. I think the loneliness, without being too hard, is, I think it's kind of self-inflicted.

I see. Did you feel sorry for him beyond the Christmas – the point at Christmas, did you feel sorry for him generally that he was someone that didn't seem to have a lot of other people in his life?---Yes.

10 Was that one of the reasons why you were content to stay at his house from time to time to give him some company?---Um, no. That suited me as well because um, it was hard to find someone to stay that um, didn't cost a fortune and I didn't need it all the time so it was, it was convenient um, and it was good to, good to have somebody that you could talk to um, but I didn't see him that often to be honest with you.

Why was it the case that you didn't see him that often?---Um, he was out a lot and um, I'm not sure – he likes being at home by himself um, so I couldn't really pinpoint ah, when I was going to be there. It was usually around late starts or, sorry, late finishes or early starts that I would come down either the night, stay there the night before or stay afterwards and um, it would be more the case that I would be um, just there myself.

20 While you were working at Unisys did you go to Mr Killalea and say to him that you needed a loan of just over \$10,000?---Um, I did ask him about a loan. I don't think we got to a dollar amount.

And did you tell him that you had some issue with your corporate credit card, that you were embarrassed that it had maxed out and that you had a piece of equipment that you needed to purchase for Unisys which had to be paid for within a fortnight and could he assist by loaning you the funds to do that purchase?---Yeah.

30 And he agreed to give you the loan, didn't he?---Yes.

And you asked for two and a half thousand dollars of the loan to be paid in cash to you, didn't you?---Not that I recall, no.

Well, how do you say that Mr – well, did he give you that loan?---I think he actually paid it to um, the people that we wanted the lifting equipment from.

Paid it directly them?---I think he did.

40 The whole of the funds?---I think so, yeah.

A piece of equipment that Unisys needed?---Yeah.

THE COMMISSIONER: Mr Roberts, the corporate credit card - - -?---Yep.

- - - was that in your name?---Yes.

Was there a limit on that credit card?---No. What happened was that ah - - -

No, don't worry about what happened?---Oh, sorry.

But was there a limit on the credit card?---Yes.

What was the limit?---The limit was around the age of the expenses on the card, so - - -

10 It was around what?---The age of the expenses on the card. So you had to present invoices to a central location for them to be reconciled against the card account.

Was there a dollar limit on the card?---Not that I recall, no, but the card had stopped because the invoices didn't match, so they hadn't paid the previous month's account, so American Express had stopped the card from being used until the invoices were cleared.

20 Well, given that this was a piece of equipment which was required by your employer, why couldn't you go to the accounts department and ask them to authorise payment for this equipment?---Because we wanted to do it outside those cost centres.

Why?---Um, I can't remember the exact details to be honest with you.

MR McGRATH: Well, you didn't regard Unisys to be short of any money, did you?---No.

30 It would be extraordinary, wouldn't it, for you to believe that you had to personally pay for a piece of equipment that was being acquired for Unisys. That's the case, isn't it?---No.

You don't think that's extraordinary?---No.

Is this something that you have done regularly through your business career - - -?---Ah - - -

- - - bought, bought equipment for your employer at your own personal cost?---No.

40 Well, wasn't this an unusual occurrence then for you to be buying equipment for Unisys for its business personally?---It, it wasn't personally.

But no, you regarded yourself- - -?---Yeah.

- - -as having to fund the purchase of this equipment within a period of 14 days, didn't you?---I don't understand what you're saying.

Well, why, you were asked the question by the Commissioner - - -?---Yes.

- - - why didn't you go to someone at Unisys and say, look, we need to buy this equipment, it's for Unisys, here are the documents, can you please authorise payment of it?---I don't remember the details. There was a reason that we didn't do it that way.

10 Well, it's extraordinary isn't it, don't you think, for you to believe that you need to come up with the funds yourself to make the purchase for Unisys? It's extraordinary isn't it, Mr Roberts?---I'm not sure I understand what you're saying.

It's extraordinary for you to be going and personally financing equipment to be bought for your employer, isn't it?---I didn't.

But you were asking Mr Killalea to give you a loan, weren't you?---That's right.

20 So it was a loan being made to you personally to buy equipment for Unisys, wasn't it?---Yes.

He wasn't loaning Unisys money, he was loaning you money - - -?---No, that's right.

- - - wasn't he?---Yes, yes.

So you were personally funding the acquisition of a piece of equipment for Unisys, weren't you?---Effectively, yes.

30 That is extraordinary, isn't it, Mr Roberts?---I don't, don't think so, no.

THE COMMISSIONER: Mr Roberts, in the event that this piece of equipment was purchased for this sum of money - - -?---Mmm.

- - - were you intending to at some stage go to the accounts department and say, look, I've just paid for this piece of equipment, am I getting reimbursed, and were you going to produce then the purchase order for the piece of equipment to prove that you'd paid for it out of your own funds? Was that the proposal?---Absolutely, yes.

40 And what about if the accounts department said, well, I'm sorry, you haven't come here to get an authorisation, you expended these funds without the authority of the company, you're not getting the money? ---No, they wouldn't – well, I was pretty confident that wouldn't happen.

But that would be the normal process, wouldn't it, that's how any company keeps track of its expenditure?---Yeah, I understand what you're saying.

Weren't you putting yourself at extreme risk of not being refunded that amount of money?---Um, don't think so, no.

All right.

MR McGRATH: Well, you've heard what Mr Killalea says, he says that he gave you \$2,500 in cash in respect of that loan transaction. You've heard him say that, haven't you?---Yes.

10 What do you say to that evidence?---I don't remember getting cash of Mr Killalea ever.

So do you say that he's mistaken, do you, about this matter?---Yes.

THE COMMISSIONER: Or are you saying that it could have occurred and you just don't remember it?---No, I, I don't remember getting cash from him at all.

20 Well, all right then, you don't remember it, but that assumes that it may well have happened, you just have no memory of it?---That's right.

There's a big distinction between saying I don't remember something - - -? ---Yeah.

- - - and that an event never occurred?---Yes.

Which is it?---I don't think the event occurred.

30 Right?---I have no recollection of getting cash from Mr Killalea.

MR McGRATH: And did you - - -

THE WITNESS: I would have remembered that.

MR McGRATH: Did you give him the account details of where he was to transfer the money?---I don't know whether I did or one of the other guys at the centre did.

40 When you say one of the other guys at the centre, what do you mean by that?---Well, the lifting, the bit of equipment, as I recall, was organised by -- we had a guy that looked after air conditioning and floor maintenance on the data centre floor and I'm pretty sure that he organised with this local supplier um, the whole thing, so I don't know whether he gave him the details or whether I did, I don't recall.

Was this something that you were organising improperly that your employer at Unisys knew nothing about?---No, they knew. I can't actually remember

the details and why we did it that way but um, there was no secret squirrel stuff going on.

Other than from the fact that you didn't disclose to them that you were borrowing money on their behalf to buy equipment for them. That's, that's a bit secret squirrel, don't you think?---No, I'm pretty sure I told them what was going on.

10 Oh, you went to them and said, look, I've had to go and ask a mate for just over \$10,000 to buy equipment for you. Did you tell them that, did you?
---No, I think I asked for how I could get it done.

You asked them how you could get it done?---Yeah.

What did they say to you?---Um, I don't recall the exact details but what I ended up doing was how we got it done.

20 Do you think that they said to you, well, you'll have to go and find a mate, lend you 10 grand for that?---No, they wouldn't have said that.

Well, how else do you think they said you should fund this equipment purchase?---I don't know.

Did you actually buy any equipment for Unisys with the funds that Mr Killalea had loaned you?---(No Audible Reply)

Did you actually buy any of that equipment?---I didn't get the funds that Mr Killalea loaned, I'm pretty sure he paid it directly to them.

30 And you left Unisys in June of 2005- - -?---Yeah.

- - -having been retrenched. Is that right?---That's right.

Did Mr Killalea come to you after you had been retrenched and say to you, well, who's going to repay this loan?---No.

He didn't?---No, not that I recall.

40 So far as you were concerned when you left Unisys - - -?---Yeah.

- - - the loan hadn't been repaid to Mr Killalea, had it?---No, but I think that - I'm trying to recall, I think that the mechanisms were in place for him to be paid.

The mechanisms were in place for him to be repaid?---Yes.

But you had left Unisys and you had absolutely no control whatsoever as to whether those mechanisms were actually seen through. Is that correct?

---That's right.

So you were content, were you, to put your mate in a situation where he might not be repaid the \$10,450 that he paid on your behalf. Is that right?

---I never thought that would be the case at any time.

Well, you had no control at all as to whether he was to be repaid on that loan, did you?---No. Well, I had no less control than if I'd been there.

10 So if you'd been there you had as little control as if you'd left. Is that right?
---That's right.

Is this the sort of thing that regularly occurred at Unisys?---I wouldn't say regularly but it, yeah, it happened.

How often did you fund Unisys in the purchase of a piece of equipment for it?---Oh, that, that time.

20 That's the only time. Have you ever done something similar at any other place of employment that you've been at?---No.

Well, I asked you a little while earlier whether you regarded this as an unusual request to be making?---Yeah.

And you agree that it was highly unusual don't you?---I don't think it was highly unusual, no.

But you've never done it for anyone else before or since?---That's right.

30 Do you know whether Mr Killalea was ever repaid that loan?---No, I don't.

To this day you've no idea?---No.

It could still be outstanding as far as you're concerned?---I think he would have said something if it was.

Did you make any attempt whatsoever to persuade Unisys to repay the loan to him?---No.

40 So you just left and whatever happened happened at Unisys, is that correct?
---Well, yes.

You never followed up with Mr Killalea and said have you been repaid that loan?---I, I may have, I don't recall.

That might be a convenient time, Commissioner.

THE COMMISSIONER: Yes. Mr Roberts you will have to return tomorrow at 10.00am. Can I remind you that you are under examination at the moment and you can't discuss your case with anyone?---Yes, ma'am.

THE WITNESS WITHDREW

[4.01pm]

Thank you, I'll adjourn.

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MR LEIGHTON-DALY: Commissioner.

THE COMMISSIONER: Yes, sorry.

MR LEIGHTON-DALY: Just before you adjourn, Commissioner, might I request a suppression order in relation to the questions the learned Counsel Assisting asked initially in relation to Mr Roberts' family and dependents in Newcastle? Just insofar as publication of those details in the media is concerned.

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MR McGRATH: Well, I haven't identified any particular names.

THE COMMISSIONER: No. No. They haven't been identified by name. Are there any real concerns? I mean, there's been no, there's been no publication of any address or, or any names that could identify that particular family. Newcastle's a big place.

MR LEIGHTON-DALY: Just excuse me for one moment, Commissioner. Commissioner, my note is and my instructions are that the – Mr Roberts' family members were identified by age and Newcastle, the fact they're in school, the fact that they're dependents of Mr Roberts.

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THE COMMISSIONER: [REDACTED]

[REDACTED]

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MR LEIGHTON-DALY: Thank you, Commissioner.

THE COMMISSIONER: [REDACTED]

[REDACTED]

SUPPRESSION OF [REDACTED]
[REDACTED]

THE COMMISSIONER: I'll adjourn to 10.00am. Thank you.

AT 4.03PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.03PM]

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