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18/02/2015

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pp 00221-00294

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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 WEDNESDAY 18 FEBRUARY 2015

AT 10.05AM

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

THE COMMISSIONER: Yes. Yes, Mr Roberts, you're on your former oath from yesterday.

<BRETT ANDREW ROBERTS, on former affirmation [10.06am]

THE COMMISSIONER: Yes, Mr McGrath.

10 MR McGRATH: I was just about say just before we start the examination there are a couple of matters I wish to raise. The first one is that Mr Leighton-Daly who was representing Mr Roberts - - -

THE COMMISSIONER: Yes.

MR McGRATH: - - - has had a personal matter arise - - -

THE COMMISSIONER: Ah hmm.

20 MR McGRATH: - - - and he's now been replaced by another counsel and he seeks leave so I'll allow that counsel to seek the formal leave.

THE COMMISSIONER: Thank you. Yes.

MR GLEESON: Commissioner, my name's Gleeson, Michael Gleeson and I formally seek leave to appear on behalf of Mr Roberts for the purpose of - - -

30 THE COMMISSIONER: Yes, Mr Gleeson, that leave is granted, thank you.

MR GLEESON: I'm obliged, thank you.

THE COMMISSIONER: Thank you.

MR McGRATH: Just a further administrative matter from yesterday. During the course of Mr Leighton-Daly's examination of Mr Killalea he referred explicitly to Mr Killalea's bank account details during the course of the questions - - -

40 THE COMMISSIONER: Yes.

MR McGRATH: - - - and I just wanted to obtain an order from the Commission to suppress those parts of the transcript that refer to those bank account details.

THE COMMISSIONER: Yes.

MR McGRATH: The references in the exhibits have been covered already but perhaps not the transcripts.

THE COMMISSIONER: Do we have a page reference by any chance?

MR McGRATH: No, I don't, I've just been told by Mr Alexis that his transcript has already been redacted with respect to those details.

THE COMMISSIONER: Ah.

10

MR ALEXIS: That'll appear at 138, Commissioner, 141 (not transcribable) bank account details appear to have been consistently redacted.

THE COMMISSIONER: Well, that's, that's consistent with the practice that is adopted Commission-wide in relation to bank account numbers but for more abundant caution though I'll simply confirm that any reference to Mr Killalea's bank account in the transcript ought be suppressed from publication. Thank you.

20

**REFERENCE TO MR KILLALEA'S BANK ACCOUNT IN THE
TRANSCRIPT IS SUPPRESSED FROM PUBLICATION**

MR McGRATH: Thank you, Commissioner.

MR GLEESON: Commissioner, sorry.

THE COMMISSIONER: Yes, Mr Gleeson.

30

MR GLEESON: On behalf of Mr Roberts can I just confirm again in terms of housekeeping that the declaration under section 38 applies?

THE COMMISSIONER: It does, yes.

MR GLEESON: I'm obliged, thank you.

THE COMMISSIONER: Yes, as from yesterday, thank you.

40

MR GLEESON: Thank you.

MR McGRATH: Mr Roberts, you're aware of a company called Management and Professional Services Pty Limited aren't you?---Yes.

And you understand that Mr Killalea owns that company don't you?
---Yes.

And that he is the person who controls it?---Yes.

And it's your understanding that the core business of Management and Professional Services is consulting around management and professional services in the information technology field, is that correct?---(No Audible Reply)

And you regard Mr Killalea as a person of considerable ability in that area of business don't you?---Yes.

- 10 Now you understood Mr Killalea to be the sole employee of Management and Professional Services didn't you?---Yes.

And have you ever performed any work for Management and Professional Services?---No.

Were there any occasions on which you were paid for work by Management and Professional Services?---No.

- 20 Have you ever represented yourself to be engaged by Management and Professional Services on a contractor basis?---No.

Have you ever received any form of payment from Management and Professional Services for work that you have done on its behalf?---No.

I'll take you to – or before that I'll ask you some questions. You remember that when you were retrenched by Unisys that there was a shortage of personnel problem that was created for Mr Killalea on the project that he was working for Unisys?---Yes.

- 30 And you had been working on that same project up until the time of your retrenchment, hadn't you?---No, but I knew of the project.

I see. And he was performing work for Unisys through Management and Professional Services at that time, wasn't he?---I imagine, yes.

Now, you raised the suggestion with him, didn't you, that perhaps Management and Professional Services should engage you to continue to work on that project, given that you had knowledge of it, didn't you?---No.

- 40 Do you deny that you raised the suggestion with Unisys that you in fact perform work on the project for Unisys under the guise of you working for Management and Professional Services?---No, it wasn't like that um, the, the, the work was to locate a couple of devices in the data centre in the CBD.

THE COMMISSIONER: Mr Roberts, your voice is quite soft, could you, could you speak up so that we can ensure that everyone hears you?---Yep.

Could you repeat that last answer?---The work was to locate a couple of devices, network devices in a data centre in the CBD, it wasn't any more than that.

So I'm sorry, by that answer are you suggesting that you did suggest to Unisys that you undertake work and that that work consisted of locating a couple of network data centres?---No, I didn't talk to Unisys about it.

10 Did you talk to Mr Killalea about it?---Yes, Mr Killalea asked me.

MR McGRATH: Well, perhaps you'll look at page 443 when it comes up on the screen before you?---Yeah.

And that's an email from you to Mr Jonathan Lilley, and Mr Lilley is an employee at Unisys at the time, wasn't he?---Yeah, he was, yeah.

And that's dated 18 August, 2005?---Yeah.

20 And it's an email from you to him?---Yep.

And it relates to the BARA project work. Do you see that?---Yes.

Could you please read through that email to yourself, please, and once you've finished reading it will you let me know?---Yes.

This was you raising a suggestion to Mr Lilley at Unisys that you do work on a project for Unisys. That's correct, isn't it?---That's right, yes.

30 At a time after you had been retrenched by Unisys?---Yes.

And you're floating the suggestion that you perform work as a contractor to Unisys. Is that correct?---Yes.

And you had spoken to Mr Killalea about doing that. Is that correct?---Ah, yes.

40 And what you had in mind, didn't you, is that you would in fact be engaged by Management and Professional Services to do work on the project for Unisys, didn't you?---Ah, I don't recall, to be honest with you. I don't think it was that complicated, I think it was just about getting some work.

Well, do you recall actually doing some work of around five to seven days on a project for Unisys where you were contracted to Management and Professional Services to do that work?---It wasn't five to seven days, no.

Well, you might quibble about the days, but are you now changing the evidence that you gave earlier that you have never done any work on behalf

of Management and Professional Services?---I don't recall being paid for the work. As I recall - - -

THE COMMISSIONER: Mr Roberts, with respect - - -

MR McGRATH: No, just attend to my question, please?---Yes.

THE COMMISSIONER: You need to focus on the question. The question was in relation to undertaking work, not whether or not you got paid?

10 ---Okay.

Go on.

THE WITNESS: Could you please ask the question again?

MR McGRATH: Yes. Are you now wishing to change the evidence that you gave that you have never done any work for Management and Professional Services?---Yes.

20 What do you now say in answer to the question have you ever done any work for Management and Professional Services?---Yes.

And what was that work?---Was to locate um, a router and some other network equipment within the data centre.

And that work occurred during the course of August, September, October, 2015 period. Is that correct?---Probably. I don't recall the dates.

30 And if we turn over to page 446. It's an email from you to Mr Killalea of 22 September, 2005. That's an email for you to Mr Killalea on the topic of the work that you were then performing for Management and Professional Services on the Unisys project isn't it?---Yes.

And then if we turn over to page 449. That's an email from you to Mr Killalea on September, 29 September, 2005 and this is an example of some of the work that you were doing for Management and Professional Services on the Unisys project isn't it?---Yes.

40 And if we turn over to page 452. This is an email from you to Mr Killalea of 10 October, 2005 in which you are referring to an agenda or plan for the relocation of the Qantas Data Centre and in fact you're referring to yourself in the course of the email as the Management and Professional Services technical manager. Do you see that?---Yes.

So you've got no doubt whatsoever, have you, that you were doing a considerable amount of work for Management and Professional Services on this project for Unisys weren't you?---Yes.

Do you still maintain your evidence that you were never paid for any of the work that you accept was considerable by Management and Professional Services?---I don't accept that it was considerable and I don't recall being paid for it.

Well, Mr Roberts, I asked you that question and you just agreed with me that you were doing a considerable amount of work on this project for Management and Professional Services. You answered yes when I asked that question?---Okay. I don't consider that it was a considerable amount of work and I don't recall being paid for it.

Well, let's be clear about this?---Yeah.

When you say you don't recall - - -?---Yeah.

- - - are you denying that it happened, are you denying that you were ever paid for the work that you did on this project by Management and Professional Services?---No, I'm not. I just don't recall it.

20 You have got no memory of it?---No.

What do you say to Mr Killalea's suggestion that you would have heard when he was in the witness box that you were paid \$7,000 in cash by Management and Professional Services for the work that you did on the Unisys project for Management and Professional Services?---I don't recall ever being paid cash from Mr Killalea.

Well, let's be clear about your answer there?---Yeah.

30 Is that you're saying it didn't happen or you've got no memory of it?---I don't have any memory of it.

Are you – would you be prepared to accede to the suggestion that it could possibly have happened?---I would have remember it.

You're saying that if it had have been in cash you would have remembered that?---Yeah.

40 Is that - - -?---Yes.

- - - correct?---Yes.

So you're, you are contesting Mr Killalea's evidence - - -?---Yes.

- - - on that point are you?---Yes.

You see the issue was that you were retrenched by Unisys in July of 2005 - - -?---Ah hmm.

That's correct, isn't it?---Somewhere around then, yes.

Yes?---Yeah.

And you weren't doing any work after you left Unisys except in relation to this project?---Ah hmm.

Is that correct?---That's right.

10

And you didn't take up your next role at the University of Newcastle until November 2005, that's the case isn't it?---It would be, that sounds right, yes.

20

So will you have this Commission believe that you were prepared to do some days work on a project for Unisys during a period in which you were otherwise unemployed and did not obtain payment for it?---Um, no, that's not what I'm saying. What, what, what I'm saying is that the work itself would have only totally a couple of days, it was two trips into a data centre and some of the content of those emails, there wasn't a lot in it.

But your evidence is that you can't recall being paid - - -?---No, I can't.

- - - as opposed to you're not, you're not asserting that you weren't paid?
---No, I'm not.

No. Now you started work at the University of Newcastle in November 2005?---Yes.

30

And the position that you obtained there was as program of work portfolio manager?---No, the, the – I ended up with that role, I started as a project manager looking after a network refresh.

I see. Now you were placed in that position by Hudson Global who are a recruitment and personnel agency, is that correct?---Yes, that's right.

Did they submit a CV or did you submit a CV to the University to enable you to secure that role?---They would have done that I think.

40

But you prepared the document that they submitted to the University, is that right?---I would have, yeah.

Yeah. And the CV that you submitted for the role falsely stated that you had two of the academic qualifications that we identified yesterday didn't it?---It probably did, yeah.

Yeah. So one of those qualifications was a Bachelor of Science in Computing from the University of Newcastle wasn't it?---Yes.

So did you think you could get away with falsely telling the University of Newcastle that you had received a degree that had been given by them?
---No.

Is that what you thought?---No.

Well, then why on earth would you have been prepared to submit a curriculum vitae containing a statement that you had a degree from the
10 University of Newcastle when you were seeking a role at the University of Newcastle?---It was just on the document.

Did you think they wouldn't check?---Ah, no, no, I didn't think that.

Did you think that anyone would never check - - -?---No.

- - - as to whether you had those degrees?---No.

Now while you were at the University of Newcastle you still remained good
20 friends with Mr Killalea didn't you?---Yes.

But your contact with him obviously wasn't as regular as it had been before?---No.

How often would you say that you were in communication with Mr Killalea whilst you were working at the University of Newcastle?---Um, I don't know, maybe once a fortnight, once a week.

You were coming down to Sydney occasionally at that time?---Yeah,
30 probably a couple of times a year, a few, a few times a year.

And when you came down a few times a year did you stay at Mr Killalea's house?---Not always, no.

But - - -?---Yeah.

- - - sometimes?---Sometimes, yeah.

Now in general terms what was the work that you were performing and the
40 position that you held at the University of Newcastle?---Um, it was managing a technical refresh to ah, I was looking after the network aspect and then they changed their structure and created portfolios um, and I ended up ah, with looking after the infrastructure portfolio that had some guys looking after storage and some guys looking after PC's and a guy looking after servers and I was doing the network part of it. There was also a software portfolio and I think there might have been one other but I don't recall it.

Now is a network refresh, is that technical language for putting in new cabling and - - -?---Yeah.

- - - computer equipment, is that right?---Yeah.

Now, in early 2006 did you contact Mr Killalea and say to him that there was an opportunity for him to do some work at the University of Newcastle?---Yes.

- 10 And did you tell Mr Killalea to give you the details of Management and Professional Services so that you could register that company as a supplier to the University?---Eventually, yes.

He gave you those details, didn't he?---Yes.

And that would involve giving details of the, the address, the telephone number and the bank account of Management and Professional Services. That's right, isn't it?---There was a form he had to fill in.

- 20 Yes. So he filled in that form and gave it to you and you submitted it to the University on his behalf?---I don't know whether I submitted it or he did it directly but I, I put him in contact with the people to do it.

Now, did you arrange for Mr Killalea to make a presentation to you and the University's Chief Investment Officer, a Peter Nikolettatos, about Management and Professional Services possibly providing services on a University project?---Just before you go on, Peter's the Chief Information Officer.

- 30 I'm sorry, Chief Information Officer?---Yep. Ah, and yes.

You did. Now, he did in fact come and give a presentation - - -?---Yes.

- - - to both you and Mr Nikolettatos with respect to a possible project on which Management and Professional Services could provide their services. That's correct, isn't it?---He came to give the presentation but I don't recall me being part of the presentation. I know he met with Peter.

- 40 Why do you know that he met with Peter?---Ah, because I saw him onsite. I see. So you did see him that day?---Yeah.

It's likely isn't it that you were present at the time of that presentation, isn't it?---Um, no, not really, that was one of the things that I was wondering about because um, it wasn't really to work with me, it would have been the governance over the top of our group.

Well, you've heard, you've heard Mr Killalea, he says - - -?---Yeah.

- - - his recollection is that you were present. You just don't have a recollection - - -?---No.

- - - of whether you were or weren't?---No.

Is that right?---That's right, yeah.

10 Do you understand that during the course of the day, Mr Killalea not only made a presentation but was asked to remain at the time that a competitor for the work - - -?---Yeah.

- - - also made a presentation?---Yeah, I heard about it.

When did you hear about that?---The same day.

So what did he say to you?---I think actually Peter told me first um, and I was a bit surprised to be honest.

20 Well, it's a highly unusual practice, isn't it?---It is, yeah.

And as you understood it, Mr Killalea was told that day that he wasn't receiving the work that he'd come up to make the presentation on. Is that right?---Yeah. I don't know whether that was before or after that second presentation.

30 I see. And as you understand it, the competitor was in fact awarded the work and not Mr Killalea?---I don't remember who the competitor was because ah, what ended up in the wash was that they hired people to do the work internally.

But as you understand it, Mr Killalea never did any work for the University of Newcastle. That's the case, isn't it?---That's right.

And at no stage has Management and Professional Services ever done any work at all for the University of Newcastle?---That's right.

40 And it would be quite false to suggest that Management and Professional Services got involved in any of the projects for the University of Newcastle? ---That's right.

That's the case, isn't it?---Yes.

Now, I'd like to show you some documents starting at page, at page 41. It will come up on the screen before you. Now, that's a tax invoice of Management and Professional Services dated 22 September, 2006 and it's addressed to the University of Newcastle, it's to your attention, it's on what's called the Network Active Equipment Project?---Ah hmm.

And it's for an amount of \$9,250. And you'll see there in handwriting the words, "Okay to pay," with a date of 23 November, 2006, and your name is written there. That's your signature written above the printed "Brett Roberts," isn't it?---Yes.

And you knew that by writing your signature there you were approving this invoice for payment. Is that correct?---Yes.

10 Did you create that invoice?---No.

You deny that you created that invoice. Is that correct?---Yes.

You've heard Mr Killalea say that he didn't create it?---Yeah, I did hear him say that.

20 And we'll go to the next page which is page 42. This is in precisely the same terms except this one has a different invoice number code and it's dated 29 September, 2006. It's otherwise exactly the same and again that is your signature next to the words "okay to pay" immediately above your printed name. Is that correct?---Yes.

And by putting your signature on that document, you have approved the invoice for payment by the university. That's correct isn't it?---Yeah. The actual - well, the process - - -

I'm asking you by putting your signature on that document you are approving that invoice for payment. That's correct?---Yes.

30 Did you create this invoice?---No.

We'll turn over to the next page, 43. Again, precisely the same terms, a different code and a different date, this time 6 October, 2006, and again, there's your name, okay to pay, that's your signature there isn't it?---Yes.

And you would agree with me that by putting your signature on this document you are approving it for payment by the university. That's correct?---Yes.

40 Did you create this document?---No.

Well, I'm going to put this to you. You did in fact create each of those invoices didn't you, Mr Roberts?---No.

Well, if you didn't, then you tell me this?---Ah hmm.

You said it was quite false to say that Management and Professional Services ever did any work for the University of Newcastle. You agreed with that proposition?---Yes.

So you knew, did you, at the time that these invoices came in to you for payment and you approved them that no work had ever been done by Management and Professional Services for the University of Newcastle?
---Yes.

- 10 What's your explanation as to why you were prepared to approve each of these invoices for payment when you knew that no work had been done by Management and Professional Services in respect of each of the invoices?
---Because Mr Killalea ah, was out of work at that point in time and ah, we had discussed this method of payment to him.

THE COMMISSIONER: Sorry, are you – when you say “we” are you referring to yourself and Mr Killalea?---Yes.

- 20 Having a discussion about raising effectively false invoices?---Yes.

MR McGRATH: When did you have your discussion with Mr Killalea about raising false invoices to the University of Newcastle?---Some time before then.

When you say “some time before then”, the first invoice is dated 22 September, 2006?---Yeah.

So would you put it in the weeks prior to that point?--- I would say so, yes.

- 30 Now, you're heard Mr Killalea's evidence to say that he was working full-time and residing in Melbourne in the period from January, 2006 till around October, November, 2006. You've heard that evidence - - -?---Yeah.

- - - haven't you?---Yeah.

And you understand, don't you, that he says that he was working and being paid on a project that was based in Melbourne during that period. That's correct isn't it?---Yes.

- 40 And you have no reason to doubt whatsoever the truthfulness of his evidence that that's where he was working and residing at that time. That's correct isn't it?---That's right.

You didn't understand at all Mr Killalea to be short of any funds did you?
---Yeah, I did.

Well, tell us this then, give us all the detail you can possibly provide us about the conversation that you had with Mr Killalea in which you say a

plan was put together between the two of you for the submission of these invoices to the University of Newcastle?---Mr Killalea's ah, work was sporadic and ah, quite often the duration might be lengthy but the actual elapsed or the amount of effort that was in that period of time was often far less than the, the duration of the engagement. Um, I had ah, spoken to him about work and getting work lots of places and spoken to him about other places. Um, he was constantly looking for work. I don't – I recall him going to Melbourne um, for the um, the work that he was doing with Computer Associates ah, but I don't recall the period and the length of time he was there. But um, he was constantly looking for work.

THE COMMISSIONER: But, Mr Roberts, you said that Killalea, Mr Killalea was out of work at that time, they were your words?---Yeah.

Well he plainly wasn't out of work was he?---Well, I thought he was, yeah.

MR McGRATH: Is this a story that you have just concocted?---No.

That you are now presenting to this Commission in an attempt to explain away an involvement that you had in presenting these invoices to the University of Newcastle?---No.

Do you recall previously saying, do you recall what you've previously said to this Commission in response to the question of whether or not Management and Professional Services provided project management services to the University of Newcastle?---No.

You don't recall your previous evidence on that point?---No. Not, not exactly, no.

Do you recall giving any evidence on a previous occasion where you have referred to payments being made by Management and Professional Services on audit work that was being done by students at the University of Newcastle?---Yes, yes.

Was the evidence that you gave on a previous occasion regarding the involvement of Management and Professional Services doing work for University of Newcastle false?---Yes.

It was a lie wasn't it?---Yes.

And are you now saying that what you are telling the Commission in the witness box today is the truth?---Yes.

And it's the case is it that you're not lying again to the Commission on this subject - - -?---That's right.

- - - in an attempt to exculpate yourself on the issue of who created these invoices?---I don't know what that last bit means.

Well, are you trying to lessen your involvement - - -?---Absolutely not.

- - - by telling another story to the Commission on the subject?---No, I'm not.

10 Now I'll take you to page 44 which will come up on the screen before you.
This is the Westpac Banking Corporation statement for Mr Killalea's
Management and Professional Services account in November of 2006
through to January 2007?---Ah hmm.

And if we run it up you'll see an opening balance on that page of
\$176,562.21?---Ah hmm.

20 And if we go over onto the next page you'll see that that balance remains
fairly constant in the 170-odd thousands and if we go onto the next page it
dips down just below 170,000 and then we'll see an entry on 21 December,
2006 of a deposit from the University of Newcastle?---Ah hmm.

Do you see that?---Yeah.

You understood didn't you that at about that time the three invoices that had
been submitted that you had approved had been paid by the University, is
that right?---I didn't know they'd been paid, I would have assumed they'd
been paid.

30 You'd assumed they'd been paid?---Yeah, yeah.

But it was your intention that the funds for that end up in the bank account
of Management and Professional Services, that's correct isn't it?---That's
right.

You know, don't you, that Mr Killalea wasn't short of funds in any way
whatsoever - - -?---No.

40 - - - during the period in which you say he needed some money?---I had no
idea.

So are you going to adhere to your evidence that he asked you to become
involved in a scheme by which fraudulent invoices would be created and
submitted to the University of Newcastle because he needed the money?---
No, I think that um, it was actually me that spoke about it.

Did you come up with the idea, did you?---I think so, yeah.

So you came up with the idea that you thought Chris might need a bit of money, I'll suggest to him let's create some fraudulent invoices and see if we can get some payment of those to you. Is that what you did?---Ah, not to me, but yes.

That was your idea, was it?---We discussed it together.

Well, no, I want to know, I want to know. This scheme was your idea that you put to Mr Killalea, was it?---Yes.

10

The answers that you are giving now are completely fanciful, aren't they?---No.

You're just trying to involve Mr Killalea in a story where you were the person who in fact created these invoices - - -?---No.

- - - and submitted them to the University of Newcastle. Is that right?---No, that's not right.

20

Well, don't you understand that it must sound preposterous that you were the person who went to Mr Killalea to suggest that he might need some money when it's quite clear at the time he didn't need any?---I had no idea what his bank balance was.

Well then why did you come up with this scheme to benefit him, according to your story?---Because it was going to benefit both of us.

Oh, you were going to share the proceeds, were you?---Yes.

30

All right. Now, so this is the scheme, is it, that you'll get – you suggested to him a scheme under which a pot of money, so nearly \$30,000, would come out of the University of Newcastle, arrive in the bank account of Management and Professional Services and that you would share the proceeds. Is that right?---Yes.

What was the arrangement so far as you say in this episode, were you going to share it 50/50, some other portion?---I think it was 50/50.

40

All right. Was this the first time that you'd ever suggested such a scheme to Mr Killalea?---Yes.

Why did you, according to your evidence, come up with this scheme?
---Um, well, I was, I was broke at the time and um, I think that I thought that he was. I had no idea what his financial situation was but all the conversations that we had up until that time led me to believe that he didn't have any work, you know, there wasn't any money coming in.

Why were you broke at the time?---I don't actually recall.

Weren't you working for the University of Newcastle and being paid?
---Yeah, I don't think I'd been there very long.

No, you had been there some time - - -?---Had I? Okay.

- - - by, by September of 2009?---Okay.

10 I'm sorry, September of 2006. You joined Newcastle University in
November 2005?---Right.

And these set of invoices are coming in, the first one's dated 22 September,
2006?---I don't, I don't actually – yeah, I understand what you're saying.

Yes?---I don't actually recall the timing, why I was broke, but that, that was
the catalyst for doing it.

20 Well, just so that we can, just so you understand, you're the one who's
broke?---Yeah.

I've shown you that Mr Killalea isn't broke?---Yeah.

Do you still maintain your evidence that you went to Mr Killalea and told
him that you wanted his cooperation in a scheme by which you would both
defraud the University of Newcastle of \$27,750?---Yes.

And you can see can't you why in those circumstances a story of that sort
sounds preposterous, can't you?---No.

30 Well, you're the only person in the scheme who needs the money, aren't
you?---Based on what you've shown me today, yes.

Yes. He didn't need any money. That's correct, isn't it?---Well, based on
what you've shown me.

Yes. And as far as you were aware, he was in Melbourne full-time working
and earning money as well, wasn't he?---I don't recall at the time where he
was.

40 THE COMMISSIONER: Mr Roberts, when you first suggested this idea to
Mr Killalea did he embrace it immediately or did he need some
persuading?---Um, I don't really recall, Commissioner. I don't think there
was much persuading.

Well, you said this was the first time you'd suggested such a scheme to Mr
Killalea?---Yeah.

Mr Killalea was running a business that provided effectively IT services to a wide range of industries and including tertiary institutions?---Sorry?

He was running a business that provided IT services to a wide range of other agencies?---No. He generally worked serially. He would work for one place and then for another place.

I appreciate that but his business was providing IT services and some of those clients were other tertiary institutions?---Yes. Yes.

10

And so what, Mr Killalea was prepared to risk the reputation of himself and the viability of his business on this scheme that was going to net him \$13,000 or thereabouts. Is that what you're saying?---Yes.

MR McGRATH: Commissioner, in light of the evidence that's now been given by Mr Roberts, I would seek the removal of the suppression order that was made with respect to his previous compulsory examination before this Commission which was on 29 January, 2015.

20

THE COMMISSIONER: Yes. The suppression order which previously applied to the compulsory examination of Mr Roberts on 29 January, 2015 is hereby lifted.

THE SUPPRESSION ORDER WHICH PREVIOUSLY APPLIED TO THE COMPULSORY EXAMINATION OF MR ROBERTS ON 29 JANUARY 2015 IS HEREBY LIFTED

30

MR McGRATH: So when you said to the Commission on 29 January, 2015 that you thought that Management and Professional Services had provided project management services to the University of Newcastle that was a lie wasn't it?---No, that wasn't a lie. I thought that was the result of the conversation he'd had with Peter.

I'm sorry, I thought you gave evidence earlier today that you know that he never did any work – that Management and Professional Services never did any work for the University of Newcastle?---I know that now.

40

Well, you knew that at the time that you were asked the question on 29 January, 2015 didn't you?---No. I was talking about the fact that he'd given a presentation to Peter about project management services.

Well, giving a presentation about project management services is not doing work for the university is it?---No.

So you knew at the time that you were asked the question on 29 January, 2015 that Management and Professional Services had not done any work for the University of Newcastle didn't you?---Yes.

So when you answered a question – you were asked this question, “To your knowledge did Management and Professional Services ever supply any services to the University of Newcastle?” Your answer was, “Um, yeah, I think they did.” That was a lie wasn't it?---Yes.

10 And then when you said – you were asked about him possibly providing a supply of services through Management and Professional Services to the university, your answer, “I asked him whether or not we could um, run um, some contractors through his organisation to help out the audit process. We had to audit 37 buildings.” That was also a lie?---No, we did have that conversation.

You did have that conversation did you?---Yes.

20 And the evidence that you gave when you were asked this question – you were asked, “Were students and others in effect employed by Management and Professional Services to undertake the auditing?” You said, “No, we paid them in cash.” And you were asked, “So when you say we, who is we?” “The project via Management and Professional Services.” You were asked this question, “You said the project was via Management and Professional Services?” “Yes” And you were asked the question, “Who paid the students and others to undertake the auditing?” and you say, your answer was, “Management and Professional Services.” The answers that you gave that Management and Professional Services was involved in the paying of cash to students for the auditing of buildings, that was also a lie
30 wasn't it?---No, that's where the cash came from.

Do you still maintain your evidence, do you, that Management and Professional Services was involved in the auditing of the buildings at the University of Newcastle by paying students in cash, is that correct?---The cash, the cash from those invoices was used to pay students to help audit the buildings.

THE COMMISSIONER: Mr Roberts, I'm having some trouble with this?
---Yeah.

40 Only about 10 questions ago it was put to you that your evidence at the compulsory examination whereby you said that MAPS was doing work for the University of Newcastle by way of engaging students to audit the buildings was false you agreed with that proposition?---That's right.

Well, what are you saying now?---I'm saying that the money from those invoices - - -

Forget about where the money went?---Yeah.

Was that evidence that MAPS was doing work for the University of Newcastle by engaging students to audit the buildings, was that evidence false?---Yes.

Go on.

10 MR McGRATH: And is the evidence that you give today about having come up with a scheme with Mr Killalea to have money paid to Management and Professional Services on the invoices also false?---No.

You've heard Mr Killalea, haven't you, give evidence to say that the invoices are in fact not in a format of the invoices that he produced - - -? ---Yeah.

- - - in Management and Professional Services?---I heard that.

20 And you understand for example one of the things that he identified in the invoice that was not in that format was a line for GST, you heard him say that?---Oh, I don't recall that bit but he probably said that.

Do you still maintain your evidence that he was the person who produced these invoices?---Yeah, I didn't create those invoices.

Whatever your evidence is on this matter the fact is that these invoices were false, you accept that don't you?---Yes.

30 You accept that they were a dishonest act done to defraud the University of Newcastle of \$27,750 weren't they?---Yes.

And you knew at the time that what you were doing so far as your involvement in what you say the scheme was was a fraud didn't you? ---Yes.

Now towards the end of December 2006 did you contact Mr Killalea and ask him to pay you in cash an amount of \$7,000?---No.

40 You've seen in the bank account that I took you to - - -?---Yeah.

- - - the receipt of the amount into Mr Killalea's bank account?---Yeah.

And you've seen that 22 December, the day following the receipt of the amount, there's a withdrawal of \$7,000?---Yeah.

What can you tell the Commission about what that \$7,000 in cash withdrawal was used for?---Nothing, I don't know what that was used for.

Well, let's get your evidence straight on this?---Yeah.

Your story is this, you came up with yourself - - -?---Yeah.

- - - a scheme that you put to Mr Killalea?---Yeah.

It was to share 50/50 the proceeds of fraudulently created invoices that would be paid by the University of Newcastle, that's your evidence isn't it? ---Yes.

10

You understand those invoices to have been paid into the bank account of Management and Professional Services don't you?---Yes.

Do you say today that you received no part of the proceeds of the amount that came into the bank account of Management and Professional Services? ---No.

20

What amount did you receive of the proceeds that came on those fraudulent invoices?---I don't recall the, the amount but it would have been close to half, but I don't recall ever getting cash from Mr Killalea.

Well, how do you say that the proceeds of this crime were transferred to you by Mr Killalea?---I don't know. I can't, I don't recall.

Mr Roberts, you say you were broke?---Yeah.

Half of \$27,000-odd is in excess of \$13,500?---Yep.

30

You were broke and you were expecting to receive half the proceeds of this crime, weren't you?---Yes.

And you say today you've got no recollection whatsoever about whether you received any of the proceeds of this crime?---No, no.

Is that correct?---No, that's not correct. I would have received the proceeds, what I don't recall is how I got them.

40

So do you think that you received half of the proceeds at some point, do you?---Yes.

Have you looked through your bank accounts from this time to see whether there were any electronic transfers of half of the proceeds - - -?---No.

- - - of \$27,750?---No, I haven't.

On the previous occasion that you were examined by this Commission you had placed before you bank account statements that covered this period, didn't you?---Yes, yes.

And you were given the opportunity across the luncheon adjournment - - -?
---Yes.

- - - to look at your bank account statements to determine whether you could identify transfers that had been made electronically by Mr Killalea into any of your bank accounts. Do you recall - - -?---Yes.

- - - being given that opportunity?---Yes, I do.

10

You were unable to identify a single transfer from Mr Killalea in this period - - -?---Yep.

- - - of any amount at all?---That's right.

That was the case, wasn't it?---Yeah, it was.

20 Do you still maintain your evidence that at no point in time have you received any amount from Mr Killalea in cash from the proceeds of what was received from the University of Newcastle?---No, I'm not saying, I'm saying I don't recall ever getting cash from Mr Killalea.

Well, you know for a fact you didn't get anything electronically from him, don't you?---Yes.

And you know for a fact, you're asserting this, that you did get half the proceeds - - -?---Yeah.

- - - of that?---Yeah.

30

So I want to suggest to you this. The only way in which you could ever have received half of the proceeds from Mr Killalea would have been by cash. That's the case, isn't it?---It, it must be, but that \$7,000, it's not enough, that's the bit that I was trying to get my head around. I, I, I don't recall the receipt of that \$7,000, I don't recall, you know, it would have been more than \$7,000. That's the bit that I was having trouble understanding.

40 THE COMMISSIONER: It might have come to you in a number of instalments though?---Yeah, I would have remember that but, and I, I don't.

Well, sorry, are you telling us that, are you telling us that you don't remember receiving the money - - -?---Yep.

- - - but you would remember if you received it in a number of different instalments?---No, I'm not saying that either, I'm not.

MR McGRATH: Well, you're very well aware, aren't you, of the evidence that's before this Commission that there were two cash withdrawals of amounts from Mr Killalea's bank account?---Yeah.

You're aware of that?---Yeah.

And you're aware of the first one of \$7,000 on 22 December, 2006, and I'll have placed before you now page 56 and you'll see there a highlighted entry of 20 February, a withdrawal of \$8,000?---Yeah.

10

In cash from the Balmain branch. Did you receive any amount from Mr Killalea of \$8,000 in cash?---I don't recall.

You don't recall?---No.

But you would accept, wouldn't you, that the inference that must be drawn by this Commission on the evidence that you've given - - -?---Yeah.

- - - is that you were paid at least half the proceeds of \$27,750 by Mr Killalea in cash?---Yeah, I understand what you're saying.

20

You accept that that is the inference that arises. Is that right?---Yes.

Do you recall Mr Killalea saying to you at the time, around 22 December, 2006, this is the evidence Mr Killalea gave, that this is the easiest \$7,000 you've ever earned in your life?---No, I don't recall that.

30

Do you recall any discussion with Mr Killalea after you became aware that the University of Newcastle had paid \$27,750 into his bank account, did you have a further discussion with Mr Killalea about the scheme that you have both undertaken, on your evidence?---I'm not sure what you're saying.

Well, did you have any further conversations with him after the money had been received?---Yeah, we would have spoken.

Did you discuss, on your evidence, anything to do with well, how easy was that scheme?---No. Well, no, I don't recall any conversations about that.

40

So you ever spoke of the whole event again. Is that correct?---Um, yeah, yeah.

Is there anything else that you wish to tell the Commission now about the events surrounding, from what you say, the scheme by which you and Mr Killalea defrauded the University of Newcastle of \$27,750?---Only that I'm really, really sorry for doing it.

Now, while you were working at the – in Newcastle, you were only ever occasionally coming down to Sydney, as your evidence was, and you from time to time stayed with Mr Killalea. Is that correct?---Yeah, that's right.

That changed though when you left – or I'll ask you this. Why did you leave the employment of the University of Newcastle?---Um, I ah, didn't accept the permanent job offer that they made at the time and ah, I didn't want the permanent job I wanted a contract.

10 Given that you'd gotten away with your scheme quite easily from the sounds of it, did you think that this was something that you would do again in the future?---No, I didn't.

Why not?---Um, well, to be blunt, I was sort of shitting blue lights that I would get picked up for it.

Was this the first time you had ever engaged in a fraud of this sort - - -?
---Absolutely.

20 - - - on your employer?---Absolutely.

Was it the last time that you had engaged in a fraud on an employer?---No.

Well, you went from the University of Newcastle. In 2007 you started working at NASDAQ?---Yeah.

And you were commuting to Sydney from your Newcastle home for that job weren't you?---Yes.

30 And that involved you coming down to Sydney on a Monday morning. Is that correct?---Yep.

But you stayed in Sydney on the Monday night?---That's right.

Then you would go home to your Newcastle home on a Tuesday night?
---Yeah.

You'd work from home on a Wednesday?---Generally.

40 You'd then commute back to Sydney on the Thursday morning?---Yeah.

You'd stay in Sydney on the Thursday night?---Yeah.

And then you'd go back to your home on the Friday night. Is that correct?
---Yeah. Not for the whole time. Only, only for a short period. I ended up commuting. I took a parking space and commuted.

Well, did you come to some form of accommodation arrangement with Mr Killalea during the period in which you were working at NASDAQ?
---Yeah, yeah.

And that you would stay with him at his home most Monday and Thursday nights?---Yeah.

And that occurred during the course of your employment at NASDAQ, that's right isn't it?---That's right, yeah.

10

And you even stayed at his home when he wasn't there?---Yeah.

And this was giving an effect to an arrangement that you had reached with him where in effect he would put you up on those nights in exchange for some drinks and a meal at a pub - - -?---Yeah.

- - - every now and again?---Yeah.

And you had a key to his home didn't you?---Yep.

20

And you had unrestricted access to his house?---Yeah.

All parts of it?---Yeah.

You come and go as you pleased?---Ah hmm.

Is that correct?---Yes.

You also had access to his computer didn't you?---No.

30

He had given you access, he had given you the password to access his computer hadn't he?---No.

All you had when you were working was an iPad and an iPhone, is that correct?---No.

Would you say that you had a laptop computer of some sort, is that what you used at the time?---Yeah, yeah.

40

So would you contest Mr Killalea's evidence that you weren't able to do things such as Word and Excel documents on the computer device that you had available to you?---Yeah.

Would you contest his evidence that you needed to use his home computer from time to time so that you could do more sophisticated things in your work?---No, look, he probably doesn't remember, he's got a table in the back room and I used to sit at the table in the back room with my laptop, it's like a sunroom.

I see. You even had your family staying with you from time to time in Mr Killalea's house as well didn't you?---Yes.

Do you still hold the position as trustee of the Management and Professional Services Superannuation Fund?---I don't think so.

When do you think you ceased to hold that position?---Um, I don't honestly know.

10

When you ceased working at NASDAQ you then took a position at the University of Sydney didn't you?---Yes.

That was in September of 2009?---Yeah.

You were the transition manager in the Information and Communications Technology section?---Yeah.

20

Did you submit your CV to the University of Sydney?---No.

Who did?---Ah, the agency that I was with.

Was it a CV that you had drafted?---It would be, yes.

Did that CV falsely state that you held an Associate Diploma and also - - -? ---Yeah, it would.

- - - a Bachelor of Science in Computing?---Yes.

30

What did the position of transition manager actually involve you doing? ---Um, the University was building a ah, shared service which involved bringing all of the IT functions from the faculties and departments into a single department.

And you continued staying with Mr Killalea under your arrangement whilst you were working at the University of Sydney didn't you?---Yes.

And your friendship with him continued during that time as well didn't it? ---Yes.

40

Do you recall the circumstances in which you arranged for Management and Professional Services to become an accredited supplier to the University of Sydney?---Um, no, I don't recall the circumstances but I know that we did.

Did you, do you recall speaking to Mr Killalea and telling him about a work opportunity that existed for Management and Professional Services at the University of Sydney?---Yeah, yeah.

What did you say to him?---Um, I was um, working in the transition group and there was some project management and ah, governance work um, going on and um, there were lots of people coming and going at the time and ah, I thought there may have been an opportunity for him.

And what, so what was the particular project that you had in mind for Management and Professional Services to actually work on?---Um, working in the project management space, in the governance space.

10 So general project management is that correct?---Yeah, yeah.

Do you recall Management and Professional Services ever doing any work for the University of Sydney?---No.

So when you were asked this question at your compulsory examination on 29 January, 2015 and you gave this answer, "Did any of the work ever get undertaken by Mr Killalea at the University of Sydney?" your answer was, "They got involved in the heritage listing aspects of it which was very complicated."?---Mmm.

20

"Basically you've got to go and get approval from some, a heritage authority on what you can and can't do in each building, it varies floor by floor, building by building. We needed to consider that to work out the total costs of what was going on in those buildings and what hadn't been done before." That was a lie, is that correct?---No, we talked about it but they didn't get involved.

No, you were asked the question, "Did you – did any of that work ever get undertaken by Mr Killalea?"---Yes.

30

The answer that you gave to that question was a lie, wasn't it - - -?---Yes.

- - - at that examination. So was this answer. "So that's the work that you understand that Mr Killalea undertook for the University of Sydney?" Your answer was, "Yeah, yeah." That was a lie, wasn't it?---Yes.

And you were asked this question, "Could you give us as full and precise a description as you possibly can of the work that you say Mr Killalea performed as part of Management and Professional Services for the University of Sydney?" Your answer was, "His organisation was engaged to get the heritage part, the heritage assessment part of the project sorted out." That was a lie, wasn't it?---Yes.

40

And you were asked this question, "And that's as full and precise a description as you are able to give us of the work he undertook. Is that correct?" And you said, "Well, yeah." That was a lie as well, wasn't it? ---Yes.

Was it your purpose to arrange for Management and Professional Services to become an accredited supplier of the University of Sydney so that you could engage in a further fraud of the sort that you had already perpetrated on the University of Newcastle?---Yes.

Because you knew the systems that operated in place at the University was that you couldn't get paid on an invoice unless you were an accredited supplier. Is that right?---Um, I don't know whether that was the case.

10 Well, did you understand that was, that was your reason for getting them accredited as a supplier, wasn't it?---Yes.

So you could perpetrate another fraud?---Yes.

So you looked at the systems of the University and you thought, what do I need to do now to put in place the circumstances on which I can perpetrate another fraud, this time on the University of Sydney?---Yes.

Is that right?---Yes.

20

And you agree that there was no work ever undertake at all by Management and Professional Services for the University of Sydney. That's the case, isn't it?---Yes.

I want to show you some invoices, the first one is at page 66. Now, there are nine of these invoices, Mr Roberts, and the first one that's before you is date 15 October, 2010?---Ah hmm.

30 It's addressed to the University of Sydney to your attention on the UOS Building Upgrades. It has service description of a "Civil Assessment as Directed," and there's a particular building identified?---Ah hmm.

It's for an amount of \$4,785. And you'll see there there's a stamp on it and there are two signatures. The signature which is next to your name, that's your signature, isn't it?---Yes.

And you wrote your signature on this invoice on 10 December, 2010, didn't you?---Looks like it, yes.

40 And it's also signed by Mr Junor?---Yep.

And he, did he sign that in your presence?---Um, I don't - - -

At the same time?---I don't recall.

This invoice was created by you, wasn't it?---Yes.

It's a fraudulent invoice, isn't it?---Yes.

And in the method of payment what you envisaged was that your company, Robcon Australia Pty Limited would receive the funds from the payment of this invoice, didn't you?---They would go into that account, yes.

Yes. So the answer to my question is yes, you envisaged that Robcon Australia Pty Limited would receive the funds in payment of this invoice?---Yes.

10 Now, this is the first of the nine invoices?---They're all the same.

On each occasion of these nine invoices running from page 66 through to 74, in each case it was an invoice created by you. That's correct?---Yes.

In each case it was a fraudulent invoice created by you. Is that correct?---Yes.

20 In each case the payment of the fraudulent invoice was to go to Robcon Australia Pty Limited wasn't it?---Yes.

And the entire benefit of any funds that get paid to Robcon Australia Pty Limited were to go to you weren't they?---Yes.

What does Robcon stand for in the Robcon Australia?---Um, it was one of the names that – it was just a \$2 company when I did the ah, search.

So it doesn't actually stand for anything?---No.

30 So there's no coincidence that – you understand what a con is?---Yeah, I do.

You understand what a rob is?---Yes.

So this is a rob and a con of Sydney University wasn't it?---Yeah, it was.

Did those, did those words get chosen because that's what you had in mind for that company?---Absolutely not, no.

40 Now, you've told us – your earlier story was that you involved Mr Killalea in your fraud of University of Newcastle?---Yep.

Why is it the case that you felt that you didn't need to involve him in relation to your fraud on the University of Sydney?---Um, because I just didn't want him involved.

You wanted to keep all the money for yourself did you?---Um, no. Well, no. That's, that's how it ended up but it wasn't that. I, I had a lot of debt at the time.

You were broke again were you?---Yeah, I was.

Where is all this debt being racked up from, Mr Roberts?---Um, I was just bad with credit cards at the time and that was an issue for me. Ah, the mortgage was getting on top of me and um, utility bills and things like that.

Have you got a gambling problem, Mr Roberts?---No, I don't.

10 Has anyone in your household got a gambling problem?---No.

Well, when you say you're bad with credit cards - - -?---Yeah.

- - - that's a bit of a euphemism. It means that you're spending more than you've got?---That's right.

Is that correct?---Yeah, that's right.

What are you spending the money on on all these credit cards?---Just living.

20 Well, no, again, another generalised description?---Yeah.

Just living?---Living beyond - - -

What were you spending your money on at the time that you say gave rise to the situation where you were broke?---Um, nothing in particular. I mean it was ah, paying bills, utility bills, things like that. Maybe um, going out. Um, school fees. All sorts of things.

30 You were being paid a salary by the University of Sydney?---Ah, no, through the agency.

Or through the agency?---Yeah, yeah.

But you were being paid a good salary by them?---Yeah.

And you say, do you, that you were broke - - -?---Yeah.

- - - through this period just on normal living expenses?---Yeah.

40 Now, previously when we were talking about the University of Newcastle you said that you had a bit of a concern that you thought Mr Killalea was a bit short of money and perhaps not even, not even working often?---Yeah.

Is that right?---Yeah, absolutely.

Why didn't you have the same concern at the time that you were perpetrating the fraud on Sydney University in relation to Mr Killalea's state?---Um, I don't recall. I don't recall what he was doing at that time.

Did you make any inquiry, how are you going, mate? How are you off for funds?---Um, we would have talked about it.

Right. But you stay in his home?---Yeah, we - - -

Every Monday and Thursday night?---That didn't always mean we saw each other.

10 I see. He wasn't there that often. Is that what you're saying?---No. He was, he was not there that often ah, so I would come home sometimes and it was empty. Um, I'd come home sometimes and he was upstairs asleep, like in bed um, so - - -

I see. Did you understand him to be in work during the period in which you were working at the University of Sydney?---I don't recall.

20 Now Robcon did in fact receive the \$43,065 that are represented by all of these invoices didn't they?---Yes.

And you used all of the money that was deposited in there by the University of Sydney for your own benefit didn't you?---Yes.

Do you recall Mr Killalea telling you that he had received a remittance advice by email from the University of Sydney for a payment that was being made on an invoice - - -?---No, I don't.

- - - to Management and Professional Services?---No.

30 Do you recall telling him at some point that there was a systems error at Sydney University and he should just discard any communication he received about paying an invoice to Management and Professional Services? ---No, I don't but that doesn't mean it didn't happen.

Now you recall that you ceased working for the University of Sydney in about April 2011. Why did you leave Sydney University?---Sorry, what date did you say?

40 About April 2011?---No, I thought it was in January um - - -

Well, whatever it was - - -?---Yeah, okay.

- - - at the point in time you left why - - -?---The contract finished.

I'm sorry?---The contract finished.

I see. Were you still shitting bullets - - -?---Blue lights.

- - - in relation to – the blue, sorry, blue lights?---Yeah.

In relation to what you'd just done at Sydney University?---Yeah.

So were you still concerned about the Newcastle University fraud that you'd perpetrated back in 2006?---Yeah, all of it.

And then you perpetrated another one on, on Sydney University?---That's right.

10

So at this point you must have been petrified were you that someone was going to uncover at some point these frauds?---I have been, yeah.

You have been since the moment you started, first started doing them?
---Yeah.

Just out of interest is the loan that you asked Mr Killalea for - - -?---Ah
hmm.

20

- - - whilst you were at Unisys also another fraud - - -?---No.

- - - that you'd perpetrated?---No.

Where were you working immediately after you finished work at the University of Sydney?---Um, I think Hudson, I think I went to work with Hudson.

Hudson?---Yeah.

30

In Newcastle?---Yeah.

So the arrangement where you were staying with Mr Killalea ceased for that period?---Yeah.

And then you took on the position at Macquarie University in July of 2012?
---Yeah.

And you remained there formally until December 2013?---Yes.

40

And that was the point in which your contract was terminated wasn't it?
---That's right.

Now when you took the position at Macquarie University did you submit your CV to Macquarie University when applying for the position?---Ah, I would have, yes.

And did it falsely state that you held an Associate Diploma - - -?---Yeah.

- - - and a Bachelor of Science in Computing?---Yeah, it did.

And the other false, the other false parts of the CV that we also identified yesterday?---The CV would be the same.

Yeah. So the, so a CV littered with falsehoods were all submitted to Macquarie University for them to assess you as a candidate for the job of experience director, is that right?---Yes.

10 Now when you, when you took the job at Macquarie University did you think to yourself, well, I've had a go once at Newcastle University and it worked, I got away with it?---No.

I did it again at the University of Sydney and I got away with it - - -?
---Yeah.

- - - so I'll have another go at Macquarie University and see if I can get away with it as well?---No, I didn't think that.

20 Did you assess their systems at Macquarie University to determine what you needed to do to engage into another invoice fraud on them?---No, it wasn't that complicated.

The, the possibility of doing a fraud at Macquarie University wasn't that complicated, is that what you're saying?---No, no, no, I didn't, I didn't put that much thought into um, analysing their systems and working out a way to do it.

30 I see. Now whilst you were working at Macquarie University you were again commuting to Sydney from Newcastle on the Monday morning, going back to Newcastle on a Wednesday and then going back to Newcastle on the Friday but otherwise staying in Sydney on the Monday and Thursday nights?---Generally, yeah.

Yes. And it was at Mr Killalea's home again?---Yeah, but I ended up commuting 'cause it was just, it was closer to drive from Newcastle than it was to drive across to North Ryde.

40 Well, it's not physically closer, is it?---Oh, no, it was quicker.

Quicker to drive - - -?---Yeah.

- - - from Newcastle to North Ryde - - -?---Yep.

- - - than it was to drive from Rozelle to North Ryde?---Absolutely.

Well, what was your commute time from Rozelle to North Ryde?
---A couple of times it took over two hours.

Yeah, a couple of times?---Yeah.

But what was your regular commute?---Oh, over an hour.

Was there any occasion on which you were able to commute from Newcastle to North Ryde in under an hour?---No, no, about the same amount of time.

10 Well - - -?---Then I'd see my family.

Are you trying to downplay the fact that you were actually in Mr Killalea's company - - -?---Oh, no, no, absolutely not.

- - - quite, quite often?---No.

I mean it just sounds ludicrous doesn't it that you could commute from Newcastle to North Ryde faster than you could from Rozelle?---Yeah.

20 Even allowing for the worst of Sydney traffic?---Yeah, it was ludicrous, 'cause if you did it late of an evening you can do it in about 20 minutes.

Now, you were friends with Mr RH from Austrapay and Unisys, weren't you?---Yep.

And you met him in about 2000?---That's right.

And you acted as a mentor to him during that time, didn't you?---Oh, yeah.

30 Well, you were his boss?---Um - - -

For part of the period - - -?---Yeah.

- - - in which he was working there?---Yeah.

And he was rapidly promoted through those organisations whilst you were there, wasn't he?---Um, he changed jobs a bit, yeah, but they all did.

And you regarded him as a friend, didn't you?---Yeah.

40

You hadn't had any contact with him since the middle of 2014 when you provided him with a reference to Macquarie University?---Ah, probably.

Yeah?---Yeah.

Did you think to yourself when Mr RH asked you whether you would act as referee at Macquarie University for a course that he wished to study there - - -?---Yeah.

- - - in July of 2014 - - -?---Yeah.

- - - that perhaps you weren't the best person to be providing a reference to Macquarie University at that time?---I did, yeah.

Because you'd been sacked by them in disgrace in December 2013, hadn't you?---Yeah, that's right.

10 And here you were, six months later, for a friend, prepared to act as a referee of that person to the very University that had sacked you in disgrace, weren't you?---That's right.

And you still went ahead and did it?---The, the, the um, the context of the reference was that he had to have somebody that ah, had managed him at some point in time to write about him and his qualities and skills and those sort of things. That's what the reference was.

20 It never occurred to you that perhaps acting in the best interests of your friend was for you to say, look, I am not really the person who should be providing this reference?---No.

Did that thought ever enter your head at all?---Yes.

And you thought you wouldn't give him the benefit of that consideration?---I, I didn't think it was relevant in the context of what he needed.

30 Because you thought you could get away with it, did you?---No, I wasn't trying to get away with anything.

Now, you've had some financial dealings with Mr RH personally, haven't you?---Yes.

At the beginning of December of 2012 you telephoned him and asked him for a \$10,000 loan, didn't you?---Yes.

Why did you need that loan?---Ah, to pay some bills.

40 Which bills did you need to pay at that time?---Um, I think that they were ah, electricity, water and, I don't know what the others - - -

You seem to be going through an extraordinary amount of water and electricity for a family of four living in Newcastle, don't you - - -?---Yep.

- - - Mr Roberts?---Yeah, our electricity bill is ridiculous.

\$10,000-odd, is it, each year?---Yeah, it would be more.

More than that. Give us an estimate of what you say you're paying on electricity up in Newcastle for your family home?---Anywhere, anywhere from 15 hundred bucks to a bit over \$3,000. The worst one I've had was nearly \$4,000.

What in a quarter?---Yeah.

So you're paying \$12,000 a year?---It's ridiculous. I've had them out.

10 Sorry, 16, \$16,000 a year?---I wouldn't say that that's constant but the summer quarter and the winter quarter are thousands.

Are you trying to hide from this Commission that you have in fact been spending money on things other than what you have informed the Commission today?---No, I'm not trying to hide anything from the Commission.

Because you're ready today to tell the truth, is that what you - - -?
---Absolutely.

20 - - - you've come to do?---Absolutely.

Was your need for money in December 2012 when you contacted Mr RH a desperate and urgent need?---Yeah, it was, I just don't remember why.

Did you tell him why you needed the loan?---Yeah, I think I did.

What did you say to him?---Ah, that I needed to pay bills.

30 That you needed to pay - - -?---Bills.

Just bills generally?---Yeah.

Did you tell him that it was an urgent need to pay those bills?---Yeah.

Did you tell him how long it would be before you would be in a position to repay the loan?---No, he told me that he needed it back pretty quick.

40 He told you - - -?---Yeah.
- - - that he needed it back quick?---Yeah.

How quickly did he say he needed the money repaid?---Oh, he was – well, he wanted it as soon as possible um, because of however he was um, gathering the money, it needed to be back in whatever account he got the money out of um, and he also told me that he'd had a bad experience with lending the money so I think that was the actual catalyst to get it back quick.

It must have horrified you when he said he needed the money back really quick?---Um, no, it didn't horrify me.

Well, where on earth were you going to get the money to repay a \$10,000 loan to him in a matter of weeks?---Ah, cashing in, what I was starting to do was to cash in an AMP policy that I had, that I'd had for an amount, amount of time um, and it was taking longer to close down than I'd anticipated.

Well, you were earning good money at Macquarie University, weren't you?
10 ---Um, yeah.

And yet you say that you weren't able to meet your living expenses from the money that you were earning at Macquarie University. Is that the case?
---That's right.

You told us that you were racing your motorbike in 2012. That's right, isn't it?---That's right.

And this is a point in time in which you were asking Mr RH for the loan
20 because you had an urgent need of money because you couldn't even pay your bills for water and electricity?---That's right.

I want to put this to you. At the point in time in which you asked Mr RH for a loan of \$10,000 - - -?---Yeah.

- - -you knew precisely where you were going to get the funds to repay Mr RH that loan?---No, I didn't.

And the place from which you were going to get those funds was by
30 perpetrating another fraud on Macquarie - sorry, a fraud on Macquarie University. That's right, isn't it?---No.

The money came in from Mr RH - - -?---Yeah.

- - -via an Internet transfer to the Robcon account, didn't it?---Probably, yeah.

Yeah. And it was on 5 December, 2012. I can take you to the documents if you need?---Yeah. No, no, I - - -
40

I want to put to you that you had concocted a scheme by which you were going to defraud Macquarie University to enable you to repay the loan that you had just received from Mr RH?---No.

And that that scheme this time was going to involve the cooperation of Mr Killalea. That's the case, isn't it?---No.

Well, do you recall contacting Mr Killalea in advance of your conversation with Mr RH in which you mentioned to Mr Killalea the possibility of doing any work for Macquarie University?---Yes.

When abouts was that conversation?---I don't know exactly.

10 Did you say to him that there was a business process improvement project on infrastructure and network that would involve you collecting and collating data and Mr Killalea then performing a review of it and documenting a process improvement report?---Yep, yep.

Did you say to him that that was the work that needed to be done that he could possible become involved in?---Yep.

And you said to him that it was about a month's worth of work and it would stretch over around three months?---Yep.

20 And did you tell him that you anticipated that there would be around \$35,000 to \$40,000 worth of work that needed to be done?---I don't think we discussed a dollar amount.

Did you say to him that if he was to do that work for Macquarie University that the two of you could split the proceeds 50/50?---Ah, no, not that work.

So you deny that there was a discussion between you and Mr Killalea to split 50/50 the proceeds of any work that would be done by Mr Killalea - - - ?---No.

30 - - - and yourself on a project for Macquarie University?---No, I don't deny that.

You don't deny it?---No.

You can't recall it?---No, no, I can recall it.

Oh, you, you agree?---Yes.

40 That you came to an arrangement that whatever work was done on that project you'd split the proceeds 50/50. Is that right?---Yes.

At a point in time in which you were employed and earning a salary - - - ? ---Yes.

- - - at Macquarie University?---Yes.

And you knew the proposal that you were putting forward to Mr Killalea was grossly improver didn't you?---Yes.

Because you were employed by Macquarie University and you were proposing to earn a secret amount of money on work through Mr Killalea's company. That's correct isn't it?---Yes.

And did you ask Mr Killalea to complete any documents for Management and Professional Services to become an accredited supplier of Macquarie University?---Yes.

10 Do you recall when you asked him to do that?---No. No.

You've got no doubts though, have you, that they became an accredited supplier?---Yes.

When was that?---I don't know exactly.

The fact is that there was never any work done by Management and Professional Services for Macquarie University isn't it?---That's right.

20 And Mr Killalea never performed any work for Macquarie University either did he?---No.

And on 30 November, 2012 whilst you were at Mr Killalea's home, you asked him to create an invoice on Management and Professional Services letterhead addressed to Macquarie University to your attention in the amount of \$32,450?---Yes.

30 And you told him, didn't you, that most of the data collection for the work you were doing and compiling for him to do the work on the process report?---No. No, I said I would get him the details.

Well, you told him, didn't you, that you were doing some work of the sort that you envisaged Management and Professional Services doing?---No.

You didn't tell him that?---No.

40 Well, I'll give you this opportunity. You tell the Commission precisely what was said between yourself and Mr Killalea that led to the creation of the invoice for \$32,450 addressed to Macquarie University?---The um, the invoice, the invoice was around um, just submitting, submitting the invoice for the value. Ah, what came after that was legitimising the invoice by creating the work that he was doing for that invoice.

Could you just stop for a moment?---Yeah.

I'm asking you to tell the Commission - - -?---Yeah.

- - - the conversation that you had with Mr Killalea - - -?---Yeah.

- - - immediately prior to the creation of that invoice from what you recall. Just the general effect of it?---Ah, about creating the invoice?

Yes. So - - -?---Yeah.

What was the conversation that you had with Mr Killalea, so - - -?---Yeah.

10 - - - what I want you to tell the Commission is he said, I said, words to the effect?---Um, that I said ah, that we had the opportunity to um, to make some money um, out of this and to give him some work as well um, and that um, he should create the invoice. And then ah, he said – we talked about what the work would be and um, initially it was around um, project governance but then I had this other need um, for the storage allocation to be done and I gathered the documents for that and gave those to Mr Killalea.

There was nothing legitimate about that invoice was there?---No.

It was a fraudulent invoice wasn't it?---Yes.

20 There was never any work of the sort described in that invoice done for Macquarie University was there?---The work didn't get done, no.

There was never anything in the nature of the product that's described in that invoice for which a licensing fee was being charged?---No, that's right.

The whole thing was completely dishonest on your part wasn't it?---Yes.

30 I just want to understand this, did you tell Mr Killalea to create a false invoice that you would submit to Macquarie University?---Yes.

Is your evidence that Mr Killalea knew that none of the service description described in that invoice had any truth about it at all?---That's right.

Is it your evidence that Mr Killalea was party to a fraudulent scheme by which Macquarie University paid \$32,450 to Management and Professional Services?---Yes.

Was it you on your evidence who came up with this scheme?---Yes.

40 When do you say that you spoke to Mr Killalea and told him of your scheme?---Ah, I don't know the exact timing.

Was it at about the time that the invoice was first created?---Oh, before then, yeah.

So all the evidence that you give about a conversation – I'll withdraw that. All the evidence that you've previously given to the Commission about

there being real work that was done by Management and Professional Services for Macquarie University is a lie isn't it?---Yes.

And all of the evidence that you – well, you said in answer to a question from me a few minutes ago - - -?---Ah hmm.

- - - that you spoke to Mr Killalea and raised with him the prospect of doing work for the University, is that correct?---Yes, yeah.

10 Is that, is that answer a lie as well?---No, no, it's true.

Did you make it – I need to understand that. Did you say to Mr Killalea that you and he should engage in a fraud by creating a false invoice that you would submit to Macquarie University and be paid upon?---Yes.

Is it your evidence that Mr Killalea knew all along in relation to that invoice that it was a fraud?---Yeah.

20 Now Mr Killalea created that invoice and handed it to you didn't he?---I don't know whether he handed it to me or whether he mailed it.

Did he provide you with a draft of the invoice which you then made changes to?---No, not that I recall.

I'll show you a document, it's Exhibit M3. Now Mr Killalea says that he created this invoice in your presence and he handed it to you?---Ah hmm.

30 And that you were the person who told him that it should have a project title of licensing product code or product licence and that it should have a licensing service description?---Ah hmm.

What do you say to his evidence that he created this document on your instructions?---Ah, he created the document, I don't remember the conversation about the invoice though that's not to say it didn't happen.

I see. Then I'll have called before you page 92 on the screen. Now do you see this is an invoice dated 7 December, 2012 in the amount of \$32,450? ---Yeah.

40 It's addressed to you and it's from Management and Professional Services, you'll see there the services description, who drafted the services description in that invoice?---Um, I think that that's, some of that's wording that I gave him.

So do you believe that you gave him instruction as to what should be contained there?---Some of that, probably not all of it.

Do you have no memory of whether or not this was in fact something that you drafted entirely yourself having been given the earlier draft of that invoice which is the paper document Exhibit M3 that's before you?---No, I remember talking about the wording ah, but I don't remember what the drafting process was.

I see. And to be clear this is the tax invoice that was in fact submitted by you for payment to Macquarie University isn't it?---Oh, I don't know, I'd say so.

10

Well, it was addressed to your attention and - - -?---Yeah.

- - - you then took it to the accounts department at Macquarie University to - - -?---No, we, we had - Katie actually sat next to me.

Oh, I see?---Yeah.

So you, you gave it to her - - -?---Yeah.

20

- - - in the expectation that she would put in train the University's processes - - -?---Yeah.

- - - to have that paid?---With all, yeah.

And you knew at the time in, when you submitted that invoice - - -?---Yeah.

- - - that it was false - - -?---Yes.

- - - fraudulent?---(No Audible Reply)

30

Fraudulent?---Yes.

And you were dishonest at that time in relation to the submission of that invoice to the University weren't you?---Yes.

And you arranged, didn't you, for a purchase requisition to be raised in relation to the invoice, and I'll have page 250 put before you on the screen? ---Ah hmm.

40

That is a Macquarie University purchase requisition which you've completed and signed on 18 December, 2012?---No, I, I just sign them, the, the ah, those coversheets are put on all the invoices.

Yes, but this is a special invoice, Mr Roberts, not just one that coversheets you made sure that you got that invoice and you got a purchase requisition and you completed all of the detail that was on there and you signed it indicating your approval for payment of the invoice, that's the case isn't it? ---No, I just signed them.

You just sign them?---Yeah, Katie and the other girls create those coversheets and those coversheets go on all the invoices.

I see. So when you say just signed - - -?---Yeah.

- - - it's not just signed though, it's that you signed indicating your approval for payment of the invoice?---Yes, yes.

10 Because without, if you hadn't signed that - - -?---Yeah.

- - - that invoice wouldn't have been paid would it?---Um, well, anybody could have signed it to be honest with you, anybody with delegation could have signed it.

I see?---Yeah.

Now you know don't you that the amount of \$32,450 arrived in the account of Management and Professional Services in payment of this invoice?
20 ---I've, I've learnt that, yes.

Well, not that you learnt it, you knew at the time that the invoice was paid didn't you?---Oh, yes.

Yes. And the deposit came in on 21 December, 2012, I'll have page 103 put before you. The deposit's highlighted on 21 December, that's the payment of the invoice isn't it?---Yeah.

And that's into the Management and Professional Services bank account?
30 ---Ah hmm.

And then you'll see there are two withdrawals there on 27 December - - -?
---Yeah.

- - - of \$5,000 each?---Yeah.

Now if we go over the page there are two further withdrawals on 28 December for \$5,000 each?---Yeah.

40 And you told Mr Killalea, didn't you, that you knew that the invoice was about to be paid into the account didn't you?---No.

Well, you knew didn't you, because you were sitting next to Katie Whiting, that the invoice had been processed for payment, didn't you?---I knew it had gone into the system, I didn't know what the payment date would be.

But the payment would be imminent?---It would be paid at some stage, yes.

Yes. So did you say to Mr Killalea, could you go and check the bank account and see if that money's arrived yet?---Yes.

And you told him, didn't you, that you wanted to be paid \$20,000 out of the proceeds that had been received from Macquarie University?---Yes.

10 And you wanted it to be paid – I withdraw that. Previously I think you gave evidence that you – when – I'll perhaps ask you this, my memory might not be too good. Did you have an arrangement with Mr Killalea at the point in time that the invoice was created that you would each split the proceeds 50/50?---Yes.

So you knew didn't you at the point in time in which you were asking him to make transfers in amounts totalling \$20,000 that you were demanding more than you had previously agreed with him would be your share of the invoice?---Yes.

20 Why were you demanding more than a 50/50 split on the proceeds of the invoice?---I don't honestly remember.

Is it because you were short of money again?---Yep.

Do you recall giving him a slip of paper in which you provided him with the account details for each of the accounts into which you wanted the money transferred?---Um, yeah, I would have given him the details, I don't know whether it was a slip of paper.

30 And you asked him to make a set of transfers of \$5,000 – I'm sorry, you made a set of transfers totalling \$10,000 to go into Mr RH's account?
---Yes.

And that was to repay the loan that you had - - -?---Yes.

- - - taken from Mr RH?---Yeah.

And you wanted the other \$10,000, which is the second – so the first set of transfers on 27 December were to Mr RH?---Yeah.

40 The second set on 28 December were to the bank account of Robcon Australia. Is that correct?---Yeah, yes.

Do you still maintain your evidence that at the time you obtained the loan from Mr RH you hadn't already concocted a scheme with – in your own mind by which you would repay that loan out of funds fraudulently obtained from Macquarie University?---No, I hadn't, that wasn't the case, that was just convenient.

Well, more than convenient. If we look at the timeline - - -?---Yeah.

You've concocted your scheme at exactly the same time as you're asking Mr RH for a loan?---Yeah, no, the, the two aren't related.

Well, on 5 December was when you got the proceeds on the loan from Mr RH?---Yeah.

And 7 December is the date of the invoice?---Yep.

10 Only two days' difference?---Yeah.

You still maintain that when you obtained the loan from Mr RH you didn't have a view that you were going to repay that loan by obtaining moneys fraudulently from Macquarie University?---That's right.

Now, it's the case isn't it, you would accept, that you got the benefit of the whole of the \$20,000 that was paid at your direction by Mr Killalea on the instructions you gave him?---Yes.

20 Because you got the whole of the \$10,000, the benefit of the \$10,000 into the Robcon Australia account?---Yes.

And you got the benefit of the whole of the repayment of the loan to Mr RH?---Yes.

Just out of interest, is it really the case that the \$10,000 that you obtained from Mr RH was spent on living expenses?---Yeah, absolutely.

You still maintain that?---Yeah.

30 Do you know a company called iPath?---Yes.

Have you worked with them in the past?---Yep.

You know the people who own iPath?---Um, I know one of them.

You know Mr Emiel- - -?---Yeah, yeah.

- - - Temmerman?---Yep.

40 And you understand that they design Wi-Fi networks?---Yes.

You encountered him first when you were working at the University of Newcastle?---Yep.

You also encountered him at the University of Sydney during your time there?---Yeah.

And you encountered him at Macquarie University during your time there?
---Yeah.

In each case they were doing Wi-Fi network scoping and construction work for those universities weren't they?---That's right, yeah.

10 In fact you were the person who introduced iPath to each of Sydney University and Macquarie University for the work opportunities that existed there weren't you?---Um, no, they actually knew um – at Sydney they actually knew Emiel – Steve Junor knew Emiel and um, I'm trying to think of the bloke's name. There's another bloke that had worked on things for them in the past. So they knew of him um, I just brought his name up while we were talking about other work.

Well, you heard Mr Temmerman's evidence yesterday, didn't you, where he identified you - - -?---Yeah.

20 - - - as being the person that had given the introduction to both- - -?---Yeah.
- - - University of Sydney and Macquarie University?---Yeah.

You wouldn't disagree with that would you?---No, no, no. Absolutely.

You contacted Mr Temmerman on 30 November, 2012 and you asked him to do you a favour?---Yes.

30 You said there was a company called Management and Professional Services which was a subcontractor to Macquarie University in the process of doing scoping work with a data centre?---Yeah.

They didn't have a supply agreement with the university and could iPath put in an invoice for \$10,450 for that work on their behalf and pay them. That's what you said to Mr Temmerman isn't it?---I don't know whether I said all of that but that's the gist of what was said.

And he agreed to do what you had asked him to do?---He did.

40 At the time you knew that Management and Professional Services hadn't done any work for the university?---That's right.

And you knew that they weren't going to be doing any such work for the university?---That's right.

And you were asking him to put in a false invoice on your behalf weren't you?---Yes.

You knew that what you were asking him to do was to defraud Macquarie University didn't you?---Yes.

Did you tell Mr Temmerman that what you were asking him to do was to defraud Macquarie University for \$10,450?---No, I didn't tell him that.

Now, if we call up page 1095. It's one of the documents which has been added to – it's on the system. This is an email from Mr Temmerman dated 30 November, 2012?---Ah hmm.

10

And it's addressed to invoices@mq.edu.au. It's also addressed to you? ---Yeah.

And it attaches an invoice from iPath addressed to Macquarie University - - -?---Ah hmm.

- - - in the amount of \$10,450?---Yep.

20 This is the invoice that Mr Temmerman first created on your instructions isn't it?---Yes.

Then did you then realise that without a statement of works Macquarie University wasn't going to pay that invoice?---No.

If you turn over the page to page 1097 you'll see an email there dated 11 December, 2012 and it's again addressed to invoices@mq.edu.au. That's the, effectively the accounts department at Macquarie University?---Right.

30 Is that correct?---I don't know. I presume so.

I see?---Yeah.

And it's been copied to you ?---Yep.

And you received that document?---I would have, yeah.

Yeah. And you would have also received the earlier document, the one dated, the email I've just shown you before?---Yeah.

40 You'll see that this one says, "Dear accounts, please cancel the attached invoice"?---Ah hmm.

Are you able to tell the Commission what happened between 30 November, 2012 and 11 December, 2012 that resulted in a cancellation of this invoice? ---No.

You don't recall having any discussion at all with Mr Temmerman about the first invoice needing to be cancelled?---No, I don't.

Well, it would have come as a major surprise to you wouldn't it if you've received the invoice – received the email on 11 December, 2012 cancelling the invoice that you had asked him to create?---Um, no, I don't, I don't know what the details are. I don't know.

Well, you had asked him - - -?---Yeah.

10 - - - without telling him to fraudulent create an invoice - - -?---Yeah.

- - - and submit it to Macquarie University hadn't you?---Yes.

And so on the same day you saw that the invoice which you had fraudulently on your part asked him to create submitted to Macquarie University hadn't you, on 30 November you got an email - - -?---Yeah.

- - - also addressed to the invoices at Macquarie University - - -?---Yeah.

20 - - - and you saw the invoice, is that right?---Ah, I don't know whether I did see the invoice that day.

Well, you must have had a keen interest in it, surely, Mr Roberts? You're asking someone to perpetrate a fraud?---Yeah.

Don't you want to see it carried through?---Yeah, but I, I wasn't watching this as closely as you're making out.

30 You're going to get \$10,450 out of this fraud aren't you, that's your intention at the time you asked Mr Temmerman to create the invoice wasn't it?---Um, I don't recall actually.

You don't recall being the person - - -?---I recall asking him to create the invoice.

But you don't, you can't recall whether in your mind you believe that you were going to be the one who benefited from the \$10,450 that would be defraud from Macquarie University?---Yes.

40 Who else, think about it carefully?---Yeah.

Who else was going to benefit from the fraud perpetrated on Macquarie University in the amount of \$10,450 from this invoice other than you? ---I don't remember.

Is that a serious answer?---Yeah, it is, I don't remember what – I don't remember why, why the amount, I don't remember how we came up with it.

How we?---Or how I came up with it.

There's only an I in this one isn't there Mr - - -?---There is, yes.

I mean you've, you've pointed the finger at Mr Killalea on some others?
---Yeah.

But let's get it straight?---Yeah.

This is you?---Yeah.

10

The money's going to you, your scheme, yes?---Yes, I just don't know what it was for.

You to benefit?---Yes.

Why did you need at least the amount of \$10,000, it's specifically 10,450, why did you need that money - - -?---I don't remember.

- - - at that point in time?---I honestly don't remember.

20

See this is exactly the same date as you're creating a fraudulent invoice with Mr Killalea to submit to the University in the amount of \$32,450. 30 November, 2012?---Yeah.

It's exactly the same time?---Ah hmm.

Do you agree with me?---Yes, I agree.

30 And you had in mind at least at 30 November that you were going to split half the \$32,450 with Mr Killalea?---Ah hmm.

Well, that will give you at least \$16,000, yes?---Yes.

And you were going to keep this one all yourself and that's another \$10,000 so on 30 November, 2012 you had in mind that you were going to rip off Macquarie University for \$26,000, is that correct?---No, it's not.

40 What do you say is not correct about that?---That I, I had planned to rip, rip them off \$26,000, I didn't have a - there wasn't a figure in mind, I don't know what that \$10,000 was for.

Well, you were the one who asked him to place the amount of \$10,450 in the invoice weren't you?---Yes.

He had no part whatsoever to play in the selection of that figure did he?
---No, he didn't.

So you must have had in your mind at that time that you were ripping off \$10,450 from Macquarie University, that's right, isn't it?---Yes.

So you would agree with me wouldn't you that at 30 November, 2012 you had in place for yourself a plan to benefit yourself for \$26,000 defrauded from Macquarie University, that's the case isn't it?---Yes.

What were the bills that were sitting there in your house for living expenses that required \$26,000 to fund them?---I don't know.

10

Was it the water bill this time?---No.

Electricity had gone up?---I don't know.

Council rates causing a problem?---They were at one stage.

What were you spending this money on, Mr Roberts?---Nothing, just living.

Is that a serious answer to that question?---Yes.

20

THE COMMISSIONER: Mr Roberts, what was your salary at this particular point in time?---At the University?

Yes?---Ah, about \$180,000.

Per annum?---Yes.

And just out of interest, whilst you were employed at Sydney University, can you recall what your salary was at that time?---Ah, no, I can't, but it would have been a contract day rate um - - -

30

Well, there was an amount of \$43,000 paid to Robcon during the period that you were at Sydney University?---Yes.

That has to represent I would have thought at least a third of what your annual salary was at that time?---Yes.

And all of that went on nothing but household expenses?---As I recall, yes.

40

Yes, Mr McGrath.

[REDACTED]

[REDACTED]

What was the \$43,000 that you got from Sydney University spent on?

---I don't remember.

Did it all go at once?---No, I don't think, no, I don't think so.

No memory, no memory of it?---No, it went over time, I think there was a gap between when I left Sydney and when I started the ah, next job.

Did you declare it in your income tax return for that year?---No.

10 Did you declare any of the proceeds of the frauds that you have perpetrated in any of the income tax returns that you have submitted to the Australian Tax Office?---No.

You involved Mr Killalea in the scheme in relation to the iPath invoice, didn't you?---Yes.

You asked him to render an invoice to iPath in the amount of \$10,450?
---Yeah, oh, yes.

20 Can you tell the Commission what you said to him when you instructed him to create that invoice?---Nothing more than that.

Did you tell him that this was part of a fraud in which you were going to involve unwittingly iPath to rip off \$10,450 from Macquarie University?
---No, no.

Did you say anything of that effect to him?---No.

30 Did you give him any indication whatsoever that this was part of a fraud?
---No.

So he didn't know about this in your evidence?---Yeah.

So did you tell him that the work that should be described in that invoice had in fact happened at Macquarie University?---Sorry, can you just say - - -

Did you tell him that the work that was to be described in the invoice - - -?
---Ah hmm.

40 - - - that would be issued by Management and Professional Services to iPath had in fact happened?---No.

Did you tell Mr Killalea – perhaps I'll have the invoice brought up, it's at page 1100. This is the Management and Professional Services invoice dated 30 November, 2012, addressed to iPath - - -?---Yep.

- - - that you asked Mr Killalea to create, is it?---Yes.

And you were the person who instructed him what would, should be contained in the services description box?---Yes.

Did you tell Mr Killalea that that work had actually occurred at Macquarie University?---No.

Did you tell him that this was a fraudulent invoice that you wished him to create and to submit to iPath?---No.

10 Well, what did you tell him about it, I mean he must have been stunned. He'd never – had he ever heard of iPath before?---No.

You say you didn't tell him that this was part of a fraud. Is that right?---No, I didn't tell him that, no.

What did you say to him?---I just asked him to create the invoice, the invoice then.

20 He'd do whatever you asked would he?---No.

Did he ask any questions at all, who were iPath?---He may have. He may have I just, I don't recall the conversation around it.

You just can't recall anything about it at all?---Not, no, not around the conversation around it, no.

Do you recall that you were at his house when this was created?---Um, no.

30 But there's no doubt whatsoever that what it is is it's a fraudulent invoice addressed to iPath isn't it?---Yes.

And at the time that it was created you knew that it was dishonest to have it submitted to iPath for payment didn't you?---Yes.

And you asked Mr Killalea to submit the dishonestly created invoice to iPath didn't you?---Yes.

40 And you know that he sent by email to Mr Temmerman this invoice don't you?---Yes.

And you told Mr Killalea, didn't you, that when the invoice, when this invoice had been paid by iPath he was to immediately pay you the funds didn't you?---Um, I believe we had that conversation, yeah.

And what you did next was that you asked Mr Temmerman to create a scope of works style – a statement of works style document which would be required if the invoice from iPath to Macquarie University was going to be paid didn't you?---I don't recall that but that's what happened.

Was it – just to make you think long and hard about this?---Yeah.

You've seen the attempted invoice on 30 November, 2012 from iPath to Macquarie University had been cancelled - - -?---Yeah.

- - - by 11 December?---Yep.

10 There was then this invoice from Management and Professional Services to iPath?---Yep.

Can you recall any conversation at all with Mr Temmerman - - -?
---Ah hmm.

- - - about the need to create a document which would represent a statement of works that Macquarie University could then assess to determine if it should be paid?---No, I don't remember that but it may not have been me that asked for the scope of works.

20 Well, we'll turn to page 119 please. This is a letter from iPath and it's addressed to your attention?---Yep.

Did you ask Mr Temmerman to create this document?---I don't recall asking him to do that, no.

You knew that by this letter he was telling Macquarie University that iPath had done the work that was described in the invoice didn't you?---Yes.

30 Now, if we go over the page to page 120 there's an executive summary of that work and you knew that iPath had not done and was not going to do that work?---Yes.

You knew the letter was false?---Yes.

You thought that iPath would be paid on the invoice. That's correct isn't it?---Yes.

You knew that iPath had no entitlement to be paid on it?---Yes.

40 You knew that it was dishonest on your part to allow that letter to have been submitted to Macquarie University didn't you?---Yes.

Then there's a document at page 118. This is the purchase requisition which was attached to that invoice and it has your signature down the bottom?---Yes.

Dated 10 January, 2013. By signing that document you were approving for payment the invoice that was to be rendered by iPath in relation to the work described in the letter of 9 January, 2013?---Yes.

And you knew by approving the payment of that that what you were doing was dishonest?---Yes.

10 And then if we turn to page 114, this is the iPath invoice dated 17 January, 2013. You knew that this invoice had been submitted to Macquarie University, didn't you?---No, but I imagine it would be.

And you knew that by this invoice iPath was telling Macquarie University that iPath had done the work there described?---Yeah.

iPath hadn't done that work. Is that correct?---Yeah.

You knew it to be false?---Yes.

20 You knew it to be dishonest and you knew that Macquarie University was going to pay that invoice to iPath, didn't you?---Yes.

And you told Mr Temmerman didn't you, either at this time or at the time when you first raised the issue with him, that immediately upon receipt of the funds, the \$10,450 that was paid on this invoice, he was to remit that to Management and Professional Services, didn't you?---Yes.

30 And we know that the invoice was paid on 14 February, 2013 because that was the amount deposited into the iPath account on that date, and if we turn to page 134 we can see the iPath bank statement contains two highlighted items, there's the payment of the \$10,450 from Macquarie University on 14 February and then the following day there's a transfer of \$10,450 out. That transfer was the one made by Mr Temmerman to the bank account of Management and Professional Services on your instructions, wasn't it? ---I would say so.

And then if we turn to page 141, please, you'll see there that's the Management and Professional Services account receipt of \$10,450 from iPath?---Yep.

40 And you contacted Mr Killalea sometime after the receipt of that and asked him if the money from iPath had turned up yet, didn't you?---Ah, I don't recall. I probably did.

He told you that the money had turned up, didn't he?---Um, I don't recall but he probably did.

And what then happened was this. Mr Killalea made a transfer out from the Management and Professional Services account but he transferred the

money into the account of Mr RH, didn't he?---Um, I don't know. Yeah, probably.

Well, do you recall that you realised that the money that you were expecting to receive from Management and Professional Services didn't arrive into your account, do you recall that?---Yes.

10 And do you recall him telling you that what he'd actually done was made a mistake and he'd used the account details for Mr RH you'd previously given him on your other fraud and he'd transferred the \$10,450 to Mr RH instead of you?---Okay, yes.

Do you recall that?---Yes, yeah.

Do you recall that you attempted to contact Mr RH to ask him to transfer you that money, do you recall that?---Yes.

He was overseas?---Yeah.

20 And you had an email exchange with him on 6 and 7 March 2013 - - -?
---Yeah.

- - - where you arranged - I'm sorry, you also spoke to him at that time?
---Yeah.

And you arranged for him to transfer the, you arranged for him to transfer the money he had received from Management and Professional Services into the Robcon bank account. Is that right?---Yes.

30 Now, how did it come to be, in your mind, that instead of getting \$10,450 transferred to the Robcon bank account, it was actually an amount of \$9,450?---I don't know.

Did you have a conversation with Mr Killalea at any point in time in which he indicated that he was going to withhold an amount?---Ah, no, no.

40 Well, if we turn to page 151 you'll see this is the Robcon bank account and on 7 March, if we scroll down you'll see highlighted there is the transfer into the account of \$9,450?---Yep.

You received the full benefit yourself of all of those funds didn't you?---Yes.

What was the internet withdrawal for \$9,450 the following day in relation to?---I don't honestly know.

You don't know what you spent the money on?---No.

Because by this stage the position was this, you'd gotten more than what you thought you were going to get out of these two frauds haven't you?
---(No Audible Reply)

You'd gotten the benefit of \$20,000 from the fraud out of the \$32,450?
---Yeah.

And then you'd gotten the benefit of \$9,450?---Yes.

10 So you'd gotten just shy of \$30,000 out of two frauds on Macquarie University in the space of three months?---Yes.

What did you spend nearly \$30,000 on that you got from these two frauds?
---Ah, I don't know.

Is it the case that you really do know and you were just resisting a truthful answer to the question?---No, absolutely not. If I knew I'd tell you.

20 THE COMMISSIONER: Mr Roberts, how many credit cards did you have at this time?---None, I got rid of them.

So when I say at this time, over the three months that you received this close to \$30,000 you had no credit cards?---Um, I'm not sure, Commissioner, I'd have to check.

Did anyone else in your family have a credit card?---No.

How long had it been since you purchased the family home?---Ah, 2003.

30 So by this stage you'd had the family home for close to 10 years?---Yeah, yeah.

Had you always had trouble meeting the mortgage payments from, from the moment you purchased the home?---No, not always, mainly changing between jobs.

40 MR McGRATH: The person that's got access to, authorisation to the Robcon Australia account, is that you alone or is it your wife as well?---Um, I think she has as well.

And do you have a personal bank account of yours alone that only you have access to?---No, no.

So you have a joint savings account that you and your wife also have aside from Robcon Australia?---That's right.

So the bank accounts that you have - - -?---Yeah.

- - - are first, sorry, the bank accounts that you have authority to operate are first of all the one of Robcon Australia Pty Limited?---Yeah.

And your wife also has authority on that?---Yeah.

And you also have a joint account that you and your wife both have authority on, is that correct?---Yes.

10 Are there any other bank accounts that you have?---Not that I know of, no.

And how many credit cards do you have?---We don't have any, we've got a debit card.

Have you ever had a credit card?---Yeah.

When was the last time you had a credit card?---Um, at Macquarie University.

20 Is that one that was personal to you?---No, it was via them but - - -

Well, let's concentrate on your personal - - -?---Oh, my personal - - -

- - - your personal credit cards?---Ah - - -

When, did you have a personal - - -?---A few - - -

I'm sorry?---It'd be a few years.

30 Well, let's get a little bit more specific than that?---Yeah.

Have you had a personal credit card in the period of time in which you were working at Newcastle University?---I don't remember.

Sydney University?---I don't remember.

Macquarie University?---Ah, no, at Macquarie University.

40 So in the period that you were at Macquarie University the only money that you were spending was by way of debit card, internet transfers and cash withdrawals from two bank accounts, is that correct?---That's right, yeah.

I thought you gave evidence earlier that at the point of time at the end of 2012 when you were short of funds - - -?---Yeah.

- - - that you had credit card bills and the like that were building up?---Yeah, I don't recall exactly when the credit cards stopped. I got rid of them because I couldn't manage them. I was spending more than um, I was getting and then eventually the, the debit card concept came up. I'm pretty

sure I picked up the debit card ah, in the CBD probably about the time I was working with um, OMX NASDAQ.

What were you spending on your credit card that you were unable to manage, what were you buying?---Just bits and pieces um, like - - -

Well, let's – really - - -?---Yeah.

10 I've asked you this question in many forms now. Let's get specific?
---Yeah.

What are the bits and pieces that you were buying on your credit card?
---Um, petrol, hardware um, eating out um, all sorts of things.

How often were you going out to restaurants for meals?---Ah, not that often.
Not that often.

20 So the eating out is then almost irrelevant when it comes to working out
what are the problems that you're having on your credit cards?---Yeah.

What else are there?---Um, I would have been putting things on it like um,
car regos um, just about anything that I could put on.

Yeah. So tot it all up. Where are the, where are the problem areas in your
expenditure - - -?---Ah hmm.

30 - - - that you've run out of control to an extent that you can't manage a
credit card, what are the problem areas, you tell us the major items of
expenditure - - -?---Yeah.

- - - that you had that have caused you to cease to hold a credit card because
you couldn't manage it?---I've just never been able to manage a credit card.

That's not answer to my question?---I don't know what the specific areas
are but it was, it was everything, it's my, like my total living expenses.

You're not accounting for an enormous chunk of money that's coming in to
your bank account?---Yeah.

40 You understand that?---Yes.

A huge portion of the income that you're earning and the proceeds of your
crime you can't account for. Do you understand that?---I can't account for
it off the top of my head. If I went through the bank accounts I think – it
would only come in and out of those bank accounts.

And do you maintain that you don't have a gambling problem?
---Absolutely.

And your wife doesn't have a gambling problem?---Absolutely.

And you're not funding your children in any form of gambling?---No.

It's just all going on living expenses is it?---Yeah.

10 Now, you had another go at a, at a fraud on Macquarie University as well, didn't you, by the creation of a further three invoices that were submitted to them. Do you remember that?---Yeah, I remember the three invoices.

It was, it was an attempt to defraud Macquarie University of an amount just shy of \$100,000 wasn't it?---Yes.

And you were the one who created those invoices weren't you?---No.

Who created the invoices?---Chris did, Chris Killalea did.

20 On your instructions?---Um, not exactly, no.

You'll need to explain that to me. What does not exactly on your instructions mean?---Well, I believe that he created them on the um, premises that the licensing agreement that he'd put together had monthly payments, a monthly payment cycle in it so the um, the first I saw the invoices was when um, he presented me the invoices as back payment or backdated to the start of the agreement.

When do you say that he did that?---Um - - -

30 As in when did he present them to you for the first time when you saw them?---I don't actually recall the first time that I saw them. I recall the conversation about them.

I'll have them called up before you on the screen. It's page 155 please. You'll see that's an invoice from Management and Professional Services addressed to Macquarie University to your attention?---Yep.

Dated 31 January, 2013?---Ah hmm.

40 And it's in precisely, other than for the code and the date, it's in precisely the same terms as the invoice that was dated 7 December, 2012 - - - ?
---Yeah.

- - - that you had been successful in having Macquarie University pay?
---Yeah.

Yes. Now, we'll turn over to the next page, to page 156. This is in exactly the same terms except for it's got a different code and different date, this time it's dated 28 February, 2013?---Yeah.

Otherwise identical. And in the next page is again identical save for code and date, this time it's 29 March, 2013?---Yeah.

Are they the invoices that you say that you received at some subsequent time and you were surprised to see them. Is that right?---Yes.

10

But you will accept won't you that they are fake invoices?---Yes.

And that none of the work that's described in them was ever done for Macquarie University?---That's right.

And that this was part of an attempt to defraud Macquarie University the total amount of those invoices of \$97,350?---Yes.

20

Now, I need you to be very specific about this, Mr Roberts. Was this a fraudulent scheme that you undertook yourself by which you believed that you would benefit from the whole of the proceeds?---No.

Is it your evidence that this was a scheme between yourself and Mr Killalea under which you would share the proceeds of the fraud?---Yeah.

When do you say that the scheme was agreed between yourself and Mr Killalea?---Sometime before that first invoice.

30

Sometime before the first invoice?---Yeah.

And could you tell the Commission as much as you can remember about the conversation between yourself and Mr Killalea in which you agreed, in which you reached agreement about this scheme?---Um, the conversation was about um, invoicing um, I don't really remember the details much more than that, but he would create the ah, invoice and send the invoices in. Um, I was surprised at the amount, I didn't think we'd discussed an amount um, but ah, he put the first amount on, amount on there and I did think at that stage that that was for quarter, you know, for 90 days. I was a bit shocked when the other invoices turned up that were identical um, and ah, they didn't get processed.

40

Is that a truthful answer, Mr Roberts?---Yeah, it is, absolutely.

When you were referring to Mr Killalea in relation to these invoices earlier - - -?---Yeah.

- - - you mentioned that Mr Killalea said to you that these were the regular invoices that were to be paid - - -?---Yeah.

- - - pursuant to an agreement - - -?---Yeah.

- - - that had been arrived at?---Mmm.

Is that a written agreement that he was referring to at that stage?---Yes.

So you're saying that at a date prior to 31 January, 2013 there was in existence a written agreement pursuant to which these invoices were issued.

10 Is that the case?---No, there wasn't. The agreement came afterwards.

Exactly, Mr Roberts?---Yeah.

There was no agreement in place with terms contained within it that there would be a regular series of invoices?---There was when the second set of invoices came.

No, I just asked you that question, Mr - - -?---Okay.

20 Concentrate?---Yeah.

This is very important?---Yeah, I understand.

Is it your evidence that before 31 January, 2013 - - -?---Yeah.

- - - there was a written agreement - - -?---No.

- - - in place?---No.

30 So the evidence that you gave to this Commission that Mr Killalea created these invoices - - -?---Yeah.

- - - pursuant to an agreement - - -?---Ah hmm.

- - - which contained terms that there would be a regular monthly invoice - - -?---Yes.

- - - is entirely false isn't it?---No.

40 Well, you just agreed with me that there was no written agreement in place?---Not before the first invoice, no.

Correct?---Yeah.

So - - -?---I'm having trouble understanding the point you're making.

Well, you, you, you have given evidence in which you've attempted to put the blame on Mr Killalea in relation to these invoices, you understand that don't you?---No, I don't.

Well, you said that these invoices came as a surprise to you?---Yeah, they did, absolutely.

And the surprise that you say they came to you was because Mr Killalea had under the terms of an agreement decided to issue monthly invoices?

10 ---That's right.

Right?---Yeah, I understand what you're saying.

Yeah?---Yeah.

So on 31 January, 2013 - - -?---Yeah.

- - - when he issued that one - - -?---Yeah.

20 - - - that was pursuant, you say, to an agreement under which there would be a monthly invoice?---Yeah.

And 28 February, 2013 you say that was being put in because it was pursuant to a, an agreement for a monthly invoice?---Yeah.

And on 29 March, 2013 you say that that was being issued pursuant to an agreement under which there would be a monthly invoice?---Yes.

Yes?---Yes.

30

And there was no document that was in place prior to 31 January, 2013 which contained an agreement for a monthly invoice to be rendered was there?---No.

And there was no agreement in place before 28 February, 2013 for a monthly invoice either was there?---No.

And there was no agreement in place before 29 March, 2013 for the rendering of a monthly invoice was there?---No.

40

So your explanation - - -?---Yeah.

- - - about Mr Killalea's involvement has to be false doesn't it?---No.

Because the answer that you gave when we started, when I started questioning you about these - - -?---Yeah.

- - - was that he – it came as a shock to you because he put these invoices in as part of a monthly agreement?---Yes.

Well, how can it be that he put these invoices in pursuant to a monthly agreement when you've just agreed with me that there was no monthly agreement at the time that any of these invoices were dated?---Because the second set of invoices came in a bundle at about the same time the agreement had been put together and that was the conversation we had. I said how come they are like this and that's what was in the agreement.

10

Isn't the position the reverse, that in fact the invoices were put in and then an agreement was put in place?---Yes, that's right.

So prior to the point where the invoices were put in there was no agreement - - -?---That's right.

- - - at all?---That's right.

- - - in relation to a monthly invoice?---Yes.

20

That's right?---Yes.

Well, then how could it be, how could it be that your explanation for Mr Killalea having done this was that he was doing it pursuant to an agreement when there was no agreement in place before they were submitted?---I don't know.

I've caught you out lying haven't I?---No, absolutely not.

30 Well - - -?---I mustn't understand what you're saying.

You mustn't understand what I say if you maintain your evidence - - -? ---Yeah.

- - - that before the date of every invoice and before the date they were submitted - - -?---Yeah.

- - - there was no agreement in place?---That's right.

40 That's right?---Yeah.

But what Mr Killalea had done by submitting these invoices was pursuant to a written agreement?---Yeah, that's right.

Well, they both can't exist as answers to be consistent can they?---I, I, I don't understand.

The agreement didn't exist at all, it didn't exist at all until after these invoices were submitted?---I think that the agreement came with the second lot of invoices.

THE COMMISSIONER: You keep saying the second lot of invoices?
---Yeah.

I don't know what you're referring to?---The very first - - -

10 We've been concentrating on three specific invoices.---Yes, sorry.

So what are you referring to when you say the second set of invoices?---The first invoice for the \$32,000 so there's four invoices in total.

MR McGRATH: Seven, let's get them straight.---Okay

7 December 2012 - - - ?---Yes.

20 - - - is the first invoice, \$32,450 paid.---Yes. Then the - - -

The second set of invoices what you're referring to are the three that I've shown you on the screen.---That's right, yes.

They've got dates, January, February, March.---Yes.

You regard them as a set.---Yes.

They were submitted to Macquarie University as one set.---Yes.

30 At no point in time before they submitted was there any written agreement that related to them. That's the case, isn't it?---That's correct.

That's your evidence.---Yes.

Yes?---Yes.

There was no agreement in place.---That's right.

40 How can you maintain your answer that Mr Killalea submitted these invoices pursuant to an agreement when there was no agreement in place?
---Because that's what the agreement says.

THE COMMISSIONER: Look Mr Roberts, this is becoming somewhat circular. Let's focus on the amount of the invoices shall we.---Yes.

You said that this was an agreement or rather this was a, this was a discussion that you had with Mr Killalea about submitting these invoices.---
Yes.

Well, where did the figure come from, where did the \$32,000-odd come from.---Chris came up with the figure.

What he just plucked it out of the air did he?---I don't know how he did it, come up with the figure but he did.

What, so you had no input whatsoever to the amount of each invoice?---No.

10 There was no discussion about what the size of the invoice would be in dollar terms?---Not that I recall, no.

What so, wouldn't you have been a bit taken aback if Mr Killalea had suddenly submitted an invoice for \$500,000?---Absolutely, I was taken aback when the first one turned up.

Well, you might have been but nonetheless those three invoices were submitted in those terms weren't they?---I don't think they left my office to be honest with you, I don't think they were process.

20

MR McGRATH: Well, let's come to that. Commissioner, do you have any further questions on this point?

THE COMMISSIONER: I just want to keep coming back to this proposition because you seem to be reluctant to accept what logically, according to the sequence of events, seems to flow. You see, if Mr Killalea plucked this figure out of the air and you were a bit shocked by that amount you must have had some discussion about it?---Yes, we did but I don't recall coming out with a dollar amount that was that high.

30

Well, forget about what you remember in terms of the dollar amount, the fact is that dollar amount didn't change did it?---No.

And so the agreement was created post the creation of these invoices wasn't it?---Yes.

So doesn't it logically follow that the invoices were constructed in the way that we see them now and then by way of justifying those amounts you agreed with Mr Killalea that you would jointly draft an agreement or that an agreement would be drafted that would seemingly support the amounts on those invoices?---That's right, that's right.

40

Well, that's all we've been asking you all this time.---Okay, I didn't understand it like that.

MR McGRATH: And it follows from that, doesn't it, this wasn't all just the work of Mr Killalea to have submitted those three invoices?---That's right.

So you reached agreement in advance of the invoices going in for him to submit them, is that the case?---Yes.

And you reached agreement on the figure that should be contained in there, is that the case?---I don't recall how the figure came about to be honest with you.

Did you agree with him before the invoices were submitted on your evidence that you would split the proceeds of them 50/50?---Yes.

10

At page 158 there is an email which is sent from Katie Whiting to Mr Killalea and that's dated 17 May 2013, do you see that they relate to three Management and Professional Services invoices?---Yes.

And you'll see in that email she refers to you, in the last paragraph, having advised that there is a signed agreement between Management and Professional Services and Macquarie University.---Yes.

20

Yes. And she's asking Mr Killalea to provide her with a copy of it.---Yes.

The answer that you gave a few moments ago that you don't believe that these invoices ever left your office is false isn't it?---I mean Informatics, Katie, Katie was in the office next door to me. Like what I'm saying is they didn't leave our area I don't believe. I don't think they went to accounts.

But let's be in no doubt at all---Yeah.

30

They were submitted to Macquarie University for payment weren't they? ---I don't think they got to the submission and approval stage.

Well, they have been submitted to at least Katie Whiting of Macquarie University for the procedures that would follow for the payment of them hadn't they?---Yes.

And I want to put this to you. You knew, didn't you, that those invoices had been submitted to Katie Whiting for payment by Macquarie University didn't you?---Yes.

40

And you knew that before she contacted Christopher Killalea on 17 May, 2013 to raise issues regarding them didn't you?---I'm not sure of the timing, no.

It's not the case that unbeknownst to you these invoices were submitted by Mr Killalea is it?---No. Absolutely.

You maintain your evidence that he submitted these without your knowledge Is that right?---No, no. I'm saying that I did know that they had been submitted.

Oh, you did know?---Yeah.

I see. So it didn't come as a surprise to you to find out that he'd submitted them then?---That's right.

Well, earlier you gave evidence to say you were quite surprised when you'd heard that they had been submitted?---At this point are you saying?

10 No. I asked you a question earlier and you said I was quite surprised - - -?
---I was surprised by the dollar amount.

- - - to find out, to find out that these invoices have been submitted to Macquarie University?---Yeah.

Do you recall that answer?---Yeah, I do, yeah.

Was that a lie?---No, that's not a lie.

20 Is it false?---No.

Well, you knew they'd been submitted at this point?---Yep.

Yep. How did you find out they'd been submitted then?---Ah, I saw them. Katie showed them to me.

I see. Now it was a lie to Katie Wilding (as said), wasn't it, to tell her on that – when she spoke to you that there was a signed agreement between Management and Professional Services and Macquarie University?---No, I -
30 - -

That's the case isn't it?---I think, I think the document had been created by then.

You think it had been created do you?---Yeah.

Is it the case that Mr Killalea came to you in the days after 17 May, 2013 and said to you that he had been contacted by Macquarie University about three invoices that they had been received – have been received by
40 Macquarie University?---Ah, I don't recall.

And that he told you that he'd received this email which mentioned that there was an agreement in place between Management and Professional Services and Macquarie University?---Yeah, yeah.

And he told you he was very concerned about this and he asked you what the F-ing hell is all this about?---That's rubbish.

And that you responded to him that shit happens. Is that, is that a conversation you had with him?---No, it's not.

And you said to him that you and he could go 50/50 to split the proceeds of the invoices?---No, that was discussed up front.

And what would you say to his evidence, Mr Killalea's evidence that he refused and begged you to do whatever you could do to have these invoices cancelled?---That conversation took place but much later.

10

When do you say that it took place, how long after 17 – Mr - - -?---About - - -

You heard all the evidence of Mr Killalea?---Yeah, I did.

You were sitting outside?---Yeah.

And you heard the lot?---Yeah.

20 He put a date marker on this conversation?---Yeah.

He said that on about the evening of Monday, 20 May - - -?---Yeah.

- - - at his home there was a discussion between you and him - - -?---Yeah.

- - - about these invoices and the contact that had been made with him on the previous Friday by Katie Whiting - - ----Yeah.

- - - about them?---Ah hmm.

30

Do you recall the conversation that you had with him – do you accept that you had a conversation with him about these invoices on that night?---No.

When do you say that you had a conversation with him about the invoices?
---Um, I don't know the exact timing but um, I'm pretty sure that the um, the sequence of events was that I explained to him that I was um, undergoing disciplinary action ah, at the time and that there was an investigation into what I'd been doing and there were a few issues that they'd talked about and one of them was the engagement ah, with MAPS.

40

That was about the time we had the conversation where he ah, didn't beg but he was ah, wanted to cancel those other invoices.

Well, how far down 2013 do you say this conversation happened, because we know that Mr Killalea was contacted by Katie Whiting - - -?---Yeah.

- - - on 17 May, 2013?---Yeah.

We know she's expecting a response to that email from him?---Yeah, yeah.

You place the conversation that you had with him - - -?---Yeah.

- - - about begging for the invoices to be cancelled - - -?---Yeah.

- - - not until you started to be the subject of a misconduct investigation at Macquarie University. Is that right?---No, it would be before the misconduct, there was an internal, there was an internal um, investigation that um, the ah, the CFO at ah, Macquarie ran ah, to start with, it was like a preliminary information-gathering exercise and um, I mentioned it to um, Chris then.

Well, was it before or after you concocted emails between yourself and Mr Killalea on 28 or 29 June, 2013?---Um, I didn't, I didn't concoct the emails. I don't know, can't remember what the date was at the time.

Well, you heard Mr Killalea's evidence?---Yeah.

Were you, do you agree that between the two of you, you concocted a series of emails on about 28 June, 2013?---Yes.

You agree that you did concoct them, is that right?---No, I agree I, agree that they were concocted.

THE COMMISSIONER: Mr Roberts, you're going to have to listen much more carefully to the questions. The question was put in terms of whether you were a party to the concoction of those emails. Are you saying - - -? ---Yes.

- - - that you weren't?---Yes, no, I was a party to it.

You were a party to it?---Yes, yeah.

MR McGRATH: Okay. I put a date on that based on the date of the emails and also the evidence of Mr Killalea - - -?---Yeah.

- - - of around about 28 June, 2013?---Yep.

So is it the case that sometime between 17 May, 2013 and 28 June, 2013 - - -?---Yeah.

- - - you had the discussion with Mr Killalea in which he begged you to have the three invoices withdrawn from Macquarie University?---He, he didn't beg but he wanted them back, yeah.

But you would put that in that period of - - -?---Yeah.

- - - approximately six weeks?---I would say so.

You also hear Mr Killalea's evidence that after he begged you to have the invoices cancelled, you told him that what you would do was tell Macquarie University that the invoices were generated in error and that no further action would be required and that you'd get the matter closed. Do you recall saying that to him?---I probably did.

And you told him that you would put it all right?---I don't remember having that conversation, no.

10

Can't remember. Now, in relation to the agreement, is it the case that you gave Mr Killalea three example agreements, either in soft or hard copy, for him to come up with a form of agreement between Management and Professional Services and Macquarie University?---Yeah, eventually that happened. He was trying to put an agreement together and ah, he had no success with it and then I said um, I'll Google some samples.

I see. So you gave him those samples?---Yeah.

20 Is that right?---Yeah.

And if we turn to page 256, please, and that's the front page of the agreement that Mr Killalea prepared after he obtained the Google samples. Is that right?---Yeah.

And you, you agree that Mr Killalea prepared that document on your instructions?---Ah, we, we had a conversation and um, I don't, don't recall it being my instructions but ah, the gist of the conversation was that there needed to be some supporting documentation around the invoices. Um, Mr
30 Killalea put the ah, the document together based on that.

But you, your evidence is that you both had the same idea as part of the scheme - - -?---Yeah.

- - - that this agreement should be put together?---Yeah.

Now if we could turn to page 263, I'm sorry, I should say before we leave that page, the first one if we go back to the first page you'll see down the bottom that it's dated 2 November, 2012?---Yeah, I see it.
40

Now that's an important date in this context because this agreement was backdated to that date wasn't it?---Yes.

Now the reason why it was backdated to that date was because in your mind you wanted to ensure that it covered the period before the first invoice was rendered on 7 December, 2012 didn't you?---No, I didn't have much input into the date, I think Chris covered that himself.

Oh, he came up with it himself did he?---Yeah. But I presume it's for the reasons - - -

But you, you recognise that the effect of it - - -?---Yeah.

- - - was that it would be, it would appear to be an agreement in place before the first invoice was rendered?---Yes, yeah.

10 Were you concerned at any point that that first invoice might be the subject of inquiry by the University as to whether it was or was not legitimate?
---Yes.

When did you, when did you get concerned that that would be the subject of an investigation by Macquarie University?---Um, when I first saw it and saw the title, the description on it.

When you saw the title of?---On the invoice and the description on the invoice.

20 That's when you had the concern?---Yeah.

Why, why did that give you a concern?---Um, because it just looked dodgy.

It looked dodgy?---Yeah.

Well, you were one of the people who drafted it?---Yes.

So when you drafted it, well, you were involved in drafting it?---Yes.

30 Did it occur to you it looked dodgy?---I didn't see the final I don't think.

You didn't see the final?---No.

Oh, I see, so that was Mr Killalea's work was it, the final version?---Well, the invoice, the, the final copies came from Chris, yes.

Right. And were you still shitting blue lights from the time that that invoice went in and got paid that all this was going to be uncovered?---Yeah.

40 Now if we turn back to page 263 again I'm sorry you'll see that this is the signature page of the document. That's your signature on the top right-hand side isn't it?---Yeah.

And you recognise Mr Killalea's signature on the bottom right-hand side?
---I don't recognise, I haven't seen it very often.

I see. Now on the left-hand side the name Zainal Gunawan is placed there, do you know a Zainal Gunawan?---No.

Do you know – was, was any person present when you signed the document?---No.

And you'll see that's dated 2 November, 2012 immediately above your signature?---Yeah.

10 And you had no doubt whatsoever did you that at the point you signed that that you were effectively signing a fraudulent and backdated document?
---Yes.

And you knew that the purpose of the document or your purpose of the document was that it be submitted to Macquarie University, is that the case?
---Yes.

And it was the document that you had referred to in your conversation with Katie Whiting that had been in place when she made an inquiry about the three invoices didn't she?---Yes.

20 Did you ask Mr Killalea to go to Macquarie University and submit this document to them?---No, he decided to.

He decided to?---Yeah, he just - - -

It come as a shock did it?---Um, yeah, it did actually.

Really? So when you put your name on this document - - -?---Yeah.

30 - - - what did you think was going to become of it?---No, no, I meant that he came, physically came out to the University.

Oh, I see?---Sorry.

So it wasn't a surprise that it got submitted - - - ?---No.

- - - to the University?---No.

It was a surprise as to how he decided to do it, is that correct?---Yes.

40 I see. Your whole purpose in creating this document was to give the false impression that there was a contract on which each of those invoices were based, wasn't it?---Yes.

And you understood that it was a dishonest backdated fraudulent document that you were submitting to Macquarie University, didn't you?---Yes.

And it was part of an attempt on your part to cover up the fraud that had already been perpetrated on Macquarie University by the payment of 7 December 2012 invoice, wasn't it?---Yes.

Tell me if you need to go to them, I just want to deal with specific with those concocted emails as I've termed them. Those emails were created whilst you were at Mr Killalea's home?---Yeah, probably.

10 Would you also agree with the evidence that he gave that you told him that you needed to draft some fake emails between the two of you to give the impression that some work had been done by Mr Killalea on a project for Macquarie University?---No, he put the sequence of emails together and dates and then I fleshed out, what the text that was in the emails.

So he selected the dates?---Yes.

And you drafted the substance of each email, is that right?---Yeah, there was some in there but it sort of didn't make sense so I sanitised it.

20 You told him, didn't you, that the two of you needed to create an email trail to try to explain a delay in the work that was being done by Management and Professional Services, is that right?---No.

These emails were also part of a cover up of your earlier fraud, weren't they?---Yes.

30 Is it the case, as you heard Mr Killalea say, that you created the emails on a memory stick and gave them to him to put on his computer.---No, I think it was the other way around.

Let me understand this, you say he selected the dates but you did the substance of each email.---Yes.

Were you dictating to him while he tapped away on the screen?---No, no.

Well, how is it that you created the substance of the emails then?---Because he gave them to me on the stick.

40 No, your evidence is that you created the substance of emails, yes?---Yes.

How is it that Mr Killalea was able to, on your evidence, have that substance on a memory that he handed to you?---Because the dates and the headers on the emails, they were in a Word document I think and then there was some text in between. I fleshed that out and gave it back to him.

Well, sorry, he, all you've said that he did was to select the dates?---Yes.

And you've put into your own work product the substance.---Yes, not all of it, some of it yes.

Now you've gone back to some of it have you?---Yes, no, no, I said some from the beginning. There was dates and some structure in those emails and then I added detail to those emails.

So are you saying that he came up with some of the substance in those emails - - - ?---Yes.

10

- - - and then gave you like a skeleton outline of emails and you finished the rest, is that your evidence?---Yes, that's right.

Is that truthful evidence Mr Roberts?---Absolutely.

Perhaps that's a convenient time Commissioner.

THE COMMISSIONER: Yes, yes Mr Roberts if you could stand down and return at 2 o'clock. I'll take the luncheon adjournment. Thank you.

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LUNCHEON ADJOURNMENT

[1.04PM]