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01/08/2012

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pp 01024-01077

PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

Reference: Operation E09/350

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 1 AUGUST, 2012

AT 10.10AM

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

MS BELLINI: Commissioner, may I give an appearance? My name is Bellini. I'm Mr Smith's instructing solicitor and in his absence this morning I seek leave to appear on behalf of the Art Gallery.

THE COMMISSIONER: Yes, you have leave. Mr Strickland?

<DANIEL PAUL, on former oath

[10.11am]

10

MR STRICKLAND: All right. Mr Paul, can I just show you this document which is I believe a copy of Exhibit D24. I'll just tab where I believe your signature, well- - -

THE COMMISSIONER: You mean Exhibit 1, tab D24?

MR STRICKLAND: Exhibit 1, tab 24?---Yes.

20 And is that a copy, is that your signature?---Yes, it is.

I tender that as the original Exhibit 1, tab 24.

THE COMMISSIONER: Well, Exhibit 46 will be a copy of, will be a copy of Exhibit D24, of, of D24 of Exhibit 1, signed by Mr Paul.

#EXHIBIT 46 - TENDER REPORT AND REQUEST FOR APPROVAL SIGNED BY DANIEL PAUL

30

MR STRICKLAND: And I'll show you this document. And at page 646, it's the second page, do you recognise that as your tax invoice for \$5,478? ---Yes.

And that, that is rendered to UWS for your attendance on the tender panel - - -?---Yes.

40 - - -in relation to tab 1, in relation to the tender evaluation for the UWS contract?---Yes.

I tender that document.

THE COMMISSIONER: The tax invoice, are the documents all stapled together, Mr Strickland?

MR STRICKLAND: They're all stapled together, together with a copy of the recommendation.

THE COMMISSIONER: Sorry, I'm now lost.

MR STRICKLAND: There's a recommendation- - -

THE COMMISSIONER: What's Exhibit 46?

10 MR STRICKLAND: There's a recommendation stapled to it but which is just a copy.

THE COMMISSIONER: Yes, so, but you haven't, Mr Paul hasn't identified the signature on- - -

MR STRICKLAND: I'll ask him to do that. It's exactly the same, it's the same signature and the same document as the previous document, but I'll do that.

20 THE COMMISSIONER: I see.

THE WITNESS: Yeah.

MR STRICKLAND: That's your- - -?---Yeah.

That's your signature on the same document?---Yes.

30 THE COMMISSIONER: Yes. Exhibit 47 is, comprises the recommendation that Kings be awarded the UWS contract for \$1,044,340, signed by Mr Paul, tax invoice for \$5,478 and invoice 111107 relating to the access control tender assessment. That's all Exhibit 47.

#EXHIBIT 47 - BUNDLE WITH RECOMMENDATION SIGNED BY DANIEL PAUL IN SEPTEMBER 2007 AS THE FIRST DOCUMENT

40 MR STRICKLAND: Can I just show you this document, please? Excuse me, would you excuse me, Mr Commissioner.

THE COMMISSIONER: Have you read the document Mr Paul?---I've read most of it, yeah. Do want me to read it completely, I mean a lot of the questions in relation to it.

MR STRICKLAND: Well what I wanted to ask, yes, this is the questions. The typing red, they're your comments aren't they?---They appear to be.

And they are comments you have made in relation to one of the tenderers proposal. Is that correct?---No. In relation to qualifications that the tenderers put forward.

Indeed. So I tender that document. That's the only copy but we'll have copies made available.

THE COMMISSIONER: What is it called Mr Strickland?

10 MR STRICKLAND: That is the only copy so I don't have it in front of me.

THE COMMISSIONER: A document headed SECOM tenderer qualifications with typing and read as exhibit 48.

#EXHIBIT 48 - UWS TENDER FOR THE INSTALLATION AND MAINTENANCE OF THE CONCEPT 4000 TENDER. CWF07-063 WITH COMMENTS BY DANIEL PAUL IN RED TEXT

20

MR STRICKLAND: I'm not sure why the signature panel page was on the - attached to the back of that though. It's not really relevant to those questions.

I see. I'll just take off the last page which is the same document as before of the recommendation. Thank you.

MR LLOYD: Commissioner, I don't know whether my friend is going to ask questions on that document.

30

MR STRICKLAND: No, I'm not. Not - I've asked all the questions I intend to.

MR LLOYD: We'll see it when we get a copy.

MR STRICKLAND: Could the witness - can I show you another document, please. I'm going to show you some minutes of a meeting on the 17 December, 2007.

40 THE COMMISSIONER: 18 December, 2007 is it?

MR STRICKLAND: Do you recognise those as - that's an email where you've attached the minutes of 17 December, 2007?---Yes.

I tender that document.

THE COMMISSIONER: The minutes of the UWS meeting of 17 December, 2007 is exhibit 49.

**#EXHIBIT 49 - EMAIL FROM MR PAUL TO OTHERS RE
MINUTES UWS MEETING 171207 SENT ON 18 DECEMBER 2007
AT 2:09**

MR STRICKLAND: Now if you go to - I'd like you to have a look at
exhibit 45 at the same time as you're looking at exhibit 49. And while
10 you're looking at 49 just have a look at - - -?---I'm not looking at anything, I
don't know what I'm looking at.

It's okay.---Thank you.

So what I'd like you to do is look at exhibit 45 the front page at 725 and at
the same time next to it look at the minutes of meeting of 17 December at
page 730. Excuse me. At item 7 on 17 December meeting it refers to the
fact that UWS reviewed the equipment and scheduled prices from Kings and
advice as follows and then there's a list of items and prices next to those
20 items and if you compare that with the column on the right-hand side of
exhibit 45 you'll see that they match up. Do you agree with that?---Yes.

So just to take two for example, the item 5 in - on exhibit 45 item 524 the -
which - for the amount of 192 - \$292 is the alternative electric strike FSH
brand. Do you see that?---Yes.

And in your - the 524 relates in exhibit 45 relates to the quantity, correct?
---That's correct.

30 Excuse me, Commissioner. So when you multiply the quantity by the price
you get the total of \$153,008?---That's correct.

So it appears that what's happened is your recommended - the prices that
you've recommended to Peter Roche on the right-hand column has been
either - is the actually price that's been considered in the minutes of the 17
December, 2007 meeting?---But I think this was in relation to the Isis
Project, to bring the Isis Project into alignment with the rest of the job so
that, so that UWS don't get any differential, any, any, any quality difference
or they get all of their relevant paperwork in the, in the project that was the
40 major tender I think that was the basis on which this was, this was written so
they get the - all the, all the as billed documentation and, and the likes from
the Isis Project which is a smaller separate project. We didn't want to get a
lesser project, a lesser quality finish not necessarily in relation to installation
but more in relation to the documentation and all the (not transcribable)
drawings and that type of thing.

But and ISIS, do you know what ISIS stands for?---It's a building company.

Okay. But the point I'm - - -?---Or a fit out company or something.

The information I'm drawing to your attention is this, is that the prices that have been considered by UWS in relation to the different items, and this all relates to the 21, 21 extra rooms. Correct?---Yeah, the ISIS project, yes.

Yes. Okay, we'll call it the ISIS project?---Yeah.

10 But the actual prices considered at the UWS meeting are the prices that you have suggested in the email to Mr Roche. Do you agree with that?---Yeah. I don't know whether that, is that relevant, is that relating back to the ISIS project though? I'm not sure.

Well - - -

THE COMMISSIONER: It's the same item.

10 MR STRICKLAND: It's the same item and if you go through each of the - - -?---So then, so then that's the case, yes. So that's, that's what I just tried to explain, obviously not clear enough.

Yes?---When I suggest - - -

THE COMMISSIONER: Look just, you were not asked for an explanation, you were asked whether - - -?---Okay. I won't explain then.

30 - - - the, you are simply at this stage being asked whether you see that the items in the minute are the same as the items in the right hand side of Exhibit 45?---Well then the answer is yes.

MR STRICKLAND: And Mr Paul, your explanation is brought out, if you go to page 726 or item 725, page 725 where you can see, and this is, it's got Kings price list work directly to a number of builders and were successful with ISIS projects and then you've written in bold, "unless otherwise instructed we have undertaken to complete these works under the instruction of ISIS". So this does relate to the ISIS project?---Yes.

40 Okay. And that being so when you go through the prices in the 17 December meeting - - -?---Yes.

- - - and there's a price for 292 and then there's the price of 3, 590?---Yep.

That's for the cable hinge transfer, there's a price \$31.60, the electric strike \$289 for the keypad et cetera, you'll see that every single price in item 7 is identical to the prices that you have suggested in the right hand column in your email to Mr Roche?---That's correct.

Okay. And at item 10 in that same meeting it says that UWS will issue a formal advice in respect to the above prices and acceptance of the same following, following SCI's benchmark in exercise - - -?---Yes.

- - - referencing the costs against trade prices and anticipated reasonable mark-ups?---Yes.

And that was a job you were required to do wasn't it?---Sorry, I was required to do?

10

Well sorry, it says that you will issue a formal advice, UWS will issue a formal advice in respect of those prices but they'll only do that after your, because you're SCI, benchmark exercise?---Yes.

And benchmark exercise is defined in this item as referencing the costs, that is the cost discussed at item 7 against trade prices and anticipated reasonable mark-ups. Correct?---That's right.

So your job was to find what the trade prices were - - -?---Yes.

20

- - - and then, but also acknowledge that Kings would, there'd be some mark-up?---Yes.

And therefore is the price discussed by Kings, is the price discussed by, I'm sorry, is the price referred to in item 7, a reasonable price?---Yes.

Having, having done the benchmarking exercise?---Yes.

30 Okay. Thank you. Can I show you another document, please? And do you recognise there in the, the top, sorry the second email is an email from Daniel Paul to Mr Byrne, copied Mr Guilfoyle and yourself, subject, Costs from Kings Benchmarking. Do you see that?---Yes.

And then the top email is, you've onforwarded that email to Mr Roche saying, "For your information only"?---Yep.

I tender that.

40 THE COMMISSIONER: Yes. The email from Mr Paul to Mr Roche of 18 December is Exhibit 50.

#EXHIBIT 50 - EMAIL FROM MR PAUL TO MR ROCHE RE COSTS FROM KINGS – BENCHMARKING DATED 18 DECEMBER 2007

MR STRICKLAND: So in the first email, the first in time, that's 18 December at 2.03, you've written to Adam and Peter, having completed the benchmark exercise, and you, and you set out in the table below the various devices and products and the prices referable to those products and devices. Correct?---(No Audible Reply)

And again do you agree that they mirror the prices that you have referred to in Exhibit 44, 45?---Yes.

10 So, and you say this, "I believe Kings are low in some areas and slightly high in others. I can request a reduction in some if you wish." Do you see that?---Yes.

"But I think the price we got from them for the reintegration for the air conditioning, lighting and audio/visual 875 flat rate is good, probably a little low." Do you see that?---Yes.

20 And then, and then you forwarded that on to Mr Roche, "For your eyes only." Why did you forward that email on to Mr Roche?---So he could see what, what, what I was saying to, to Adam and Peter.

You see, that, when you say, "I believe Kings are a low in some areas and slightly high in others", that, that email is inconsistent I suggest with the evidence you gave yesterday that the prices that you have nominated in the right-hand column of Exhibit 45 was done under instruction or you believe it was done under instruction from some UWS employee?---Not at all.

You disagree with that?---I totally disagree with that, yes.

30 Well, there is, there is no mention in any of the correspondence that you have seen, that is the minutes of, any minutes of any meeting or Exhibit 50 that suggests that you were, you were instructed by UWS employees to revise the prices that Kings have suggested, as at, as at Exhibit 45 email.

THE COMMISSIONER: Upwards.

MR STRICKLAND: Upwards?---Yeah.

40 Do you agree with that?---You're, you're, you're correct with that.

Yes?---But do you want an explanation for it or not?

Yes, please?---Yeah. If we're having an off-the-record conversation with the client and, and, and a group of people within the client and the client says to me, you need to, you need to assist the contractor to massage those numbers to accommodate the needs of our documentation and our, and our requirements at the tail end of the project, i.e. as built drawings, et cetera, et cetera, then they're not going to, they're not going to put that in writing to

me, Dan, tell them to put their prices up, it's going to be an off-the-record conversation. I'm not going to reference that in any ah, in any emails, am I?

THE COMMISSIONER: Why is it going to be an off-the-record conversation, I don't understand that?---Because the client's not allowed to, typically not allowed to say go and put your prices up on us, are they?

Well, I don't know, you tell me?---But they usually, when, when they do that, they'll use a consultant to do that.

10

What, are they defrauding the manufacturers?---I, no, not at all, not defrauding the manufacturers.

So why are they doing it?---Sorry?

Why do they want the prices to go up?---Because, because they want the paperwork, the drawings and all of the relevant bits and pieces covered on the project, i.e., i.e. the as installed drawings, the schematic drawings, the user manuals, the training, the warranties, right. Um, remembering that

20

I have no idea what you're talking about?---No, you don't understand the project.

I, I am trying to, I'm asking you why do they want to increase the, why would the client want to increase the price?---Because there's no other scope for them to increase the price or give Kings the ability to increase the price to cover the paperwork.

30

What do you mean, cover the paperwork?---The as built drawings and the like. It wasn't covered.

Well, why, what does it mean by covered?---Well- - -

What do you mean by covered?---To pay for the, to pay for their time for doing the, the as built drawings, the system schematics, the user manuals
- - -

40

Pay for- - -?- - -the training, et cetera.

Paying for whose time?---Kings. So that's how they got them to put their price up slightly to cover all of that additional administrative cost.

Why - so this is, this is an extra cost to - it's an extra amount of money that Kings are going to recover from the client?---Yes.

And why can't your client simply say if, if the client is prepared to do this these are costs for administrative paperwork?---You'd have to ask the client that.

No, I'm asking you that because this I gather is some dishonest exercise involving you not being - you and the clients not being prepared to record in writing what the - what actually is going on. That's what I understand you to be saying?---Well I don't know whether that it's dishonest it's, it's - - -

10 Well why isn't it - why are you not prepared to set it out in writing for everybody to see?---I don't know, it wasn't me that gave the instruction.

Why didn't you set it out in writing? Why did you falsely increase the price?---Because I was instructed to.

By the client?---Yes.

Who in the client instructed you?---I don't recall just the individual.

20 So even though they falsely asked you to increase the price you can't remember who it was?---No, it would have been a discussion of all, all of the relevant people at that meeting.

And by what right did Kings, what right did Kings have to be paid for the administrative paperwork?---Because they have to - at the end of the project, at the end of every part of the project they have to provide system schematics, they have to provide as built drawings - - -

30 Is that part of the tender?---They had to provide user manuals and training.

Is that part of the tender?---I don't, I don't recall because I don't have, I didn't write the tender.

Well what is - do Kings have an obligation to do this, an obligation to UWS to do this?---I don't recall, I don't - I didn't write the tender, I don't, I don't know what was written in that tender - - -

Well I mean I don't - then you don't know what you're talking about?---Of course I know what I'm talking about.

40 Well you don't know whether Kings are a - Kings are entitled to recover this under the tender or not?---I acted under instruction.

You imagined - you, you are reconstructing - - -?---No, no, no, I didn't imagine anything.

You - this is - you're making this up?---No, I'm not.

You - - -?---No, I'm not making it up.

Yes, Mr Strickland.

MR STRICKLAND: Yesterday you were asked about exhibit 45 this is at page 1021 and the, the, the essence of your answer was this, you did not recall - you didn't have an actual recollection of being instructed to increase them, to suggest an increase price but you say that you would have received those instructions?---That's correct.

10 And you're saying you would have received those instructions because absent those instructions there would be no legitimate reason for you to suggest an increase in price. Correct?---I've done this on other projects with other clients - - -

THE COMMISSIONER: Just answer the question. It's a yes or no answer?---You don't need to yell, Commissioner, I can hear you - - -

Well you - you are trying my patience because you do not answer the question?---I do answer the questions.

20

Just answer the question and stop arguing. Just answer the question?---Right. Can you repeat the question, please?

Yes or no?---Can you repeat the question, please.

MR STRICKLAND: The reason you gave yesterday that you would have received instructions to suggest an increase in price although you have no actual recollection of those instructions is because absent those instructions there would no legitimate reason for you to ask - to suggest to Kings to increase the price?---Correct. But I acted under instruction.

30

Okay. And when you were asked by the Commissioner yesterday at 121 what possible reason could your client, that is UWS have to ask Kings to increase the price so that they pay more, your answer was quote, "most likely to bring it under a warrantee or some sort of - I don't recall the detail of that, I don't recall the specific details but it will be related to some sort of warrantees or were using products from us as in our stock." That's a different answer from the answer you gave just a moment ago isn't it?---No, it's similar, it's a similar answer and I couldn't on, on the spare of the moment yesterday I couldn't remember the detail of it.

40

THE COMMISSIONER: Are you giving answers on the spare of the moment are you?---Well you're asking me for answers straight away aren't you?

So you give the first thing that comes into your mind?---The best of my recollection, of course. You're asking me to answer questions - - -

But the answer that suits your case?---Excuse me, the answer that's true.

I see.

MR STRICKLAND: So when you gave evidence just a moment ago about an off the record discussion you had with UWS employees, which UWS employee did you have that off the record conversation with?---I don't recall the individuals.

- 10 And when you say off the record was it that UWS employee who said to you, this conversation is off the record?---No, I don't recall that particular, those particular words because I don't recall the individual. But I suspect from memory, if I'm allowed to, it would be more than one individual. It would have been the group.

Well – but did the group state to you, whoever, whoever said it, that this conversation was to be off the record ie not communicated formally or in writing? Is that what was indicated to you?---Not that I recall.

- 20 Well how did you, how did you understand that it was an off the record conversation?---Because they're pushing the price up.

But they didn't say it was off the record?---I don't recall.

See there is no – I want to suggest to you that at no time did any UWS employee tell you that you should suggest to Kings to increase the price of the products that they were offering?---And you can suggest all you like, but you're wrong.

- 30 When you – if you go to Exhibit 50 you have said, "I believe Kings are low in some areas and slightly high in others", that statement that you've told, you've written to Adam Byrne, Peter Guilfoyle, they're slightly high in others is a reflection of your own suggestions to increase, slightly increase the prices of all the items. Correct?---Correct.

- 40 But what you're saying is that they already know when they've received this email that Kings prices are slightly high because you suggested it. Is that right?---They know I had conversations with Kings. They don't know, they probably don't know the specific content of those conversations. They would know that I was moving the prices up very slightly and the way that that's written in the, in the minutes is to reflect the, the outcome not the, not the process.

Do you agree that if you had suggested to Kings to increase the price without instructions that would be an act which was directly in conflict with the interests of your client?---Absolutely.

Excuse me.

THE COMMISSIONER: Did you tell Kings that the reason for the increase in the price was to compensate them for the documents they were going to prepare at the end of the tender?---I would suggest I did, yes.

I'm not asking you if you would – that's not an answer that's acceptable. Did you or didn't you?---I don't recall.

10 But how, it's very strange the arrangement when it happens orally between you and the representatives of UWS which is inconsistent with the written words and it's done so as to artificially record, artificially increase the prices which Kings are going to charge as compensation for them providing documents at the end of the tender when nobody in Kings seems to know that this was the reason for the prices being increased?---I didn't say that nobody in Kings knew it.

Well who knew?---Well Peter Roche would have, he was in charge of that project.

20 Did you tell him?---From memory I don't recall. I guess I did.

And now you've suddenly remembered have you?---When was it, in 2007, that was five years ago.

Have you suddenly, have you suddenly remembered? Because you said a minute ago that you- -?---I don't recall.

- - -didn't remember, then you followed by saying Mr Roche?---I don't recall the specific details of the conversation.

30 So you don't, you don't remember?---I don't recall the specific details of the conversation.

That's not what I asked you, I asked you who did you tell?---I don't recall who I told or the specific details of the conversation.

Yes, Mr Strickland?

THE WITNESS: I believe it was Peter Roche.

40 MR STRICKLAND: As I understand your evidence, the reason for the suggestion to increase the prices was to cover an additional expense that Kings would incur. Is that, that's right, isn't it?---That's correct.

And that additional expense involved the preparation of certain paperwork? ---Of all of the user manuals and the like and covering the warranties and, and the generic end of, end of project stuff, yes.

If that were the case, if that were true, then surely the sensible arrangement to have in place would be for Kings to bill separately for those extra expenses which could then be properly paid by UWS?---To put in a variation is, the standard practice is to put in a variation.

So, so- - -?---The way to cover a variation- - -

Hold on, that would be a sensible practice, wouldn't it, rather than to have some- - -?---That would be one option. That would be one option.

10

Well- - -

THE COMMISSIONER: Well, was it a variation?---No, it wasn't a variation.

So then why- - -?---No, I said, I said one option is to put in a variation to cover all of those costs.

Well, had- - -?---This, that option wasn't taken up.

20

Had- - -?---The option was to increase the price of these components slightly to cover that cost- - -

Had- - -? - - -so they didn't have to put in a variation.

Had there been a written agreement between UWS and Kings whereby UWS undertook to pay Kings for the documentation to be prepared at the end of the contract- - -?---I have no idea.

30 Just a minute. You keep interrupting me when I'm asking you a question? ---Sorry, Commissioner.

I'll start again. Had UWS or Kings placed or compiled a written record in a document which stated that Kings would prepare the document, documents required at the end of a contract and UWS would pay them a fee for that, would that have constituted a variation?---My apologies, I don't understand the way you've phrased that question.

40

Well, I'll try again. If Kings had written to UWS and said, we will prepare the documentation at the end of the contract if you pay us X dollars and UWS had written back saying, yes, we agree, would that have constituted a variation?---I don't know, I don't have the contract in front of me so I can't tell you what was covered in that contract.

So you don't know whether this, this arrangement whereby Kings was going to be compensated for the extra drawings constituted a variation or not? ---As, as, to, to the best of my recollection they didn't put in a variation claim for that.

Yeah. That's not what I asked you, I asked you whether it constituted a variation or not?---I don't know, I don't have the contract in front of me.

So you, you don't know?---I don't have the contract in front of me. It's five years ago.

10 But I thought your evidence was that one way of doing it was to have a variation?---One way of dealing with that type of thing is to issue a variation, yes.

Yeah. If of course there was nothing in the contract which dealt with this, then there was no obligation on Kings to provide any further contractual documents, was there?---Correct.

If there was something in the contract then Kings was obliged to do that without getting any compensation additional to what's in the contract. Is that not so?---That would be the case.

20 So how did it come about in this case that it was done in a secret way?
---Because it was for the ISIS project and the ISIS project was separate to the, to the, to the main project, it was under the builder.

Why did that make it secret? Why did that create the need for it to be secret?---I've got no idea. You need to ask UWS that.

Yes, Mr Strickland.

30 MR STRICKLAND: The, the ISIS project which is basically the 21 additional rooms, that itself was a variation from the original Concept 4000 contract wasn't it?---No. It was a separate contract. It comes under a builder, it doesn't come under as a variation from UWS. It wasn't a purchase order from UWS to my knowledge.

The document, the documents that have been tendered in this hearing indicate that that, that this separate contract is described as a variation from the contract?---Is it?

40 Well to your knowledge it was a separate contract. Is that right?---To my knowledge it was a separate contract - - -

Okay?--- - - - that we were managing under our week to week management meetings because it was the same contractor, it was the same outcome that we required, it just happened to be under the builder, so it was easier for us to assist in managing it.

Okay. If I can just show you some additional, additional email, and this relates to the same matter we've just been talking about?---Sure.

Just have a look at that. I'll just get you to just to read, I'll just see what I wish you to read, if you just read the email, it's 741 and 742 and then go to 746 and look at the Kings costs items?---Yes.

So having read that email that's an instruction to Kings to proceed with the ISIS contract, that's the additional 21, security for the additional 21 rooms. Do you agree with that?---Yes.

10 And it's described there as a variation to the larger contract?---Yes. So that supports my, my – I was a little bit out in that I didn't think it was a variation to our contract, UWS' contract, but it supports the original discussions in relation to bringing it in to our project and needing to cover all of the paperwork and relevant manuals and drawings et cetera.

If you go to 746?---Yep.

20 You'll see that Kings have listed the various equipment that is required and the price, the unit rate for the price is the same as discussed in Exhibit 45 on the right hand column which itself was identified in the UWS meeting?
---Yes.

Do you agree with that?---Yes.

I tender that email together with the attachments.

THE COMMISSIONER: The email from Mr Paul to Mr Roche on 19 December, 2007 with attachments is Exhibit 51.

30

#EXHIBIT 51 - EMAIL FROM MR PAUL TO MR ROCHE AND OTHERS RE PROGRESS CLAIM, BANKSTOWN EXTRAS AND STOCK SENT ON THE 19 DECEMBER 2007

MR STRICKLAND: I'll show you another, I'll show you another email, this is on a - the witness is still reading it.

40 THE COMMISSIONER: Has he got to read the whole thing?

MR STRICKLAND: No, just, just the - tell me when you're finished. Just, just page 734 and 735.---Okay.

So this email refers to a, a quote where various tasks are suggested and they're in the non bold print and then in bold print you have made comments about whether the task should be done and more particularly who should carry out the tasks, is that - - -?---And how, yes.

Is that correct?---Yes.

And that relates to the general - the large Concept 4000 contract, correct?
---That actually relates to changing over some existing product that's there
and as I understand it the, the other contractor the electrical contractor there
is Elite are the incumbent Electricals and they used to or don't know
whether they still do these days but install some of the security equipment.
To have two installers on the contract providing similar services will cause
massive grey areas in warranties, so what we're trying to do there is
10 separate whose task is, is to do what.

Okay. And then the purpose of the email, the reason you sent it to Adam
Byrne is, is you want him to give you instructions whether to instruct other
Kings or Elite to perform the work specified in this email, correct?---Yes,
'cause I don't have authority under this contract to instruct.

Now the - this email you sent to Adam Byrne was blind copied to Mr Roche
- - -?---Right.

20 - - - by you. Did you know that?---I - it doesn't surprise me, it doesn't
matter.

Well, do you, let me just show you this metadata for that and I'll just, and
I've highlighted the, the part in the metadata - I'm sorry, I beg your pardon,
I've only highlighted the one here?---Thank you.

It's on the second page in the middle, page 739, and it relates to this email?
---Sure.

30 So when you say, why would you have blind copied this email to Mr
Roche?---Most likely as a heads-up so that he can get his people ready to
start doing this. It was a fairly onerous task to change out the programming,
to go back and take the, the dongles back to Security Merchants, have the
licensing changed over, et cetera, et cetera, and I don't know the timing of
this, but it was highly likely that it was to be done straightaway.

But why did you blind copy, why not just copy it to Mr Roche so that Mr
Byrne can see that you'd copied it to Mr Roche?---Well, I have no idea why
I blind copied it as opposed to open copied it, but it wouldn't have mattered
40 either way I don't think.

But in light of the instruction given at the first meeting, which was that all
copies of documents generated by you needed to be seen by UWS, it did
matter whether you blind copied a document because your instructions
were, as per that meeting, to make sure that there was a transparent flow of
communication. Do you agree with that?---Yes, I do.

So that being so, it would be contrary to those instructions to blind copy an email meant for the eyes of Mr Byrne. Do you agree with that or not?
---Look, in, in, in fact, in fact it is contrary because the instruction was given, openly make it transparent, but it was a negligible point that, that, it had no bearing, it was no, there was no ah, I mean, I don't know, as I said, I don't know why I blind copied him as opposed to open copied him. The point was it was ah, it was to go to, to Peter if, if ah, Adam said, yeah, go ahead with this, with this process. Adam may have turned around and said, no, tweak this or change that, I don't know what the reply was.

10

Well, one reason to blind copy it as distinct from openly copying it was to demonstrate to Roche, unbeknownst to Mr Byrne, that look, here you were yet again instructing UWS to award various or to give various work to Kings. Do you agree with that?---No. If you look at it from that perspective you could see it from that perspective, but no, that's not the meaning of the, of the ah, of this particular approach here at all, in fact not at all. As I said, I don't know why I blind copied him, he could have well, well, easily been openly copied, it was just that I didn't have permission to do that yet and we're trying to give him or I'm trying to give him the heads-up on where it's headed so that he could act fast. It wasn't really, it was nothing sinister in it at all.

20

I tender the email of 18 December '07 together with the metadata attached to it.

THE COMMISSIONER: The email of 18 December 2007 from Mr Paul to Mr Byrne with metadata attached is Exhibit 52.

30

#EXHIBIT 52 - EMAIL FROM MR PAUL TO MR ROCHE AND OTHERS RE PROGRESS CLAIM, BANKSTOWN EXTRAS AND STOCK SENT ON THE 19 DECEMBER 2007

MR STRICKLAND: And, and you noted, you accept that you didn't copy Elite into that email, did you?---No, I didn't. I don't even know that I had their, I don't know their details, no, no, I didn't.

40

THE COMMISSIONER: Do you think that Mr Byrne would have been happy to learn that you are recommending Kings in the respect set out in the email and telling them that, that you are doing that before getting Mr Byrne's authority to go ahead and instruct them?---I doubt it would have bothered him but then I'm not, I can't speak on his behalf.

Yeah.

MR STRICKLAND: Can I show you this email, and do you see that this is an email from Mr Kuryj- -?---Sure.

- - -who was the project manager at UWS. Is that correct?---Yes.

And he's attaching to - for your - he's attaching to this email his financial payment claim schedule as requested of Mr Byrne?---That's right.

10 And can I show you another document, please. And it's another email on 21 January for Mr Creary to you referring to a phone conversation that Kings has now amended the progress claims schedule and then asking you to send it through to UWS? Is that, that's the first email, correct?---Yes.

And then you've made a comment, I beg your pardon, I'm sorry. The first in time, I beg your pardon, I'm sorry. The first in time, email in time was your response to the first email I showed you a moment ago which is the page 748, I beg your pardon and you've responded to that by saying it looks okay but why aren't you making any progress claims to install installation works only monthly? I'd be inclined to claim differently and then you get the response from Mr Creary. Do you see that?---That's right, yeah.

20 So what you're suggesting to Mr Creary is to reconfigure or restructure the progress claims for the installation works so that they could make claims more quickly. Is that right?---Absolutely, yes, yes. That's so that they reflect the works that they do. It's, it's - again it's one of the things that we discuss with the client, we discuss with the contractor to smooth out the, the cash flow, it's not a good thing to have all of your invoicing done at the tail end or, or lump - big lump sums monthly, it's easier to process that.

30 Was that something - was that done under the instructions from your clients?---In, in conjunction with clients absolutely, yes.

So, well when you say in conjunction with the clients was that done on their instructions?---It would have, yes, yes, yes. In a, in a - - -

THE COMMISSIONER: Who gave you those instructions?---In the tender meeting we would have, we would have discussed that.

You would have?---Yes.

40 Does that mean you did?---We did.

And who was at the tender meeting?---Peter Guilfoyle, Adam Byrne, what was the - Leo Johnson, the Kings people.

Mr Strickland, are you tendering these - - -

MR STRICKLAND: Yes. I tender those as a single exhibit.

THE COMMISSIONER: Yes.

THE WITNESS: They're not invoicing more than they need to they're invoicing more frequently, that's all.

THE COMMISSIONER: Exhibit 53 comprises the email from Mr Creary at Kings to Mr Paul the 18 January, 2008 with payment claim schedule attached together with the - a string of emails the last of which being from Mr Creary to Mr Paul of 21 January, 2008.

10

#EXHIBIT 53 - 2 EMAILS STREAMS – THE FIRST BEING AN EMAIL FROM MR KURYI TO DANIEL PAUL DATED 18 JANUARY 2008 AND THE SECOND BEING AN EMAIL SENT ON 21 JANUARY 2008 (ICAC REF: 748-755)

MR STRICKLAND: Can I just show you another document, please?--- Thank you.

20

Now do you recognise that as a letter that you wrote - - -?---Sure.

- - - to Mr Byrne inviting him to attend the ISC conference?---Yes, I do.

I tender that.

THE COMMISSIONER: The letter dated 11 January, 2008 from Mr Paul to UWS, attention Mr Byrne, is Exhibit 54.

30

#EXHIBIT 54 - LETTER FROM SECURITY CONSULTANTS INTERNATIONAL TO UWS DATED 11 JANUARY 2008 (ICAC REF: 757-758)

MR STRICKLAND: The form of this letter, the form of this invitation to Mr Byrne, did you copy that format or borrow from a Kings invitation format?---No. I gave them my format.

40

I see. So they copied from you?---Yes.

I see?---Not copied, but they actually asked me for a copy of it in Word so they could make changes.

Okay. And do you know when they did that?---I have no idea what year, no.

I want to show you some more minutes of meetings, please in 2008. Do you recognise that as a minute of the meeting on 18 August, 2008?---Yes, I do.

I just refer your attention to item 8, please?---Yes.

I tender that?---You might want to check item number 3 as well. It goes on about the invoicing and follow, follow the agreed format.

Thank you?---So it was minuted.

10 THE COMMISSIONER: Exhibit 55 is the minutes of the meeting of 18 August, 2008 at UWS.

#EXHIBIT 55 - MINUTES OF MEETING DATED 18 AUGUST 2008 (ICAC REF: 790)

20 MR STRICKLAND: Right. I'll show you a customer quotation. Do you recognise that as a customer quotation sent by Kings to Adam Byrne?---No, I don't recall seeing this before.

I'm going to tender that because it's part of this series of documents.

THE COMMISSIONER: Yes. Exhibit 56 is the customer quotation number 43255 from Kings.

#EXHIBIT 56 - CUSTOMER QUOTATION NUMBER 43255 FROM KINGS (ICAC REF: 795)

30 MR STRICKLAND: Can I show you a series of emails?

THE COMMISSIONER: Have I got this right? The customer quotation number 43255 is Exhibit 56.

MR STRICKLAND: Thank you. Now I would just like you to read these emails from the back. First Gary Myers was an officer for CSD or Central SD. Is that correct?---Yeah, CSD, yep.

40 And CSD supply security equipment. Is that right?---They're a wholesaler, yes.

And if you bear in mind the minutes of the meeting that I referred you to that Kings were to provide for a cost to complete the entire project and then if you look at the customer quotation which refers to the items that were actually supplied, does that refresh your memory about emails with CSD asking them to provide the price for the various stock to complete the

project?---That means nothing to me in relation to the customer quotation 43255.

Well, let me ask you differently. Do you recall communicating with CSD in relation to prices for the additional stock to complete the UWS project?---As a result of this email, yes, I do.

10 Okay. So Gary Meyers sends to you an email, this is, this is on page 813, sends you an email about your details, "And I'll await the email as discussed." Then the next email, which is the one I want to take you to, is on page 812 which is from you to Gary Meyers, copying to Paul Riordan, Charlie Diekman and Adam Byrne, the subject being, Quotation for the purpose of stock for UWS. And then you say this, "As the consultant for UWS I have been asked to source the purchase price for the additional stock required to complete the project."---Yes.

"As you know, the original stock was purchased directly by UWS from Security Merchants." And that's correct, isn't it?---Yes.

20 You then say, "The stocks required to complete is detailed below." And then there's a table as described there with the quantity of the items you want. Correct?---That's correct.

And then you say, "I would be pleased if you could provide me with a price for each of the listed items and a total purchase price, please, so that the University may choose to buy directly from CSD"?---Yes.

30 Right. And the reason you want the University to, to, to choose whether to buy directly from CSD is because they may be able to get a better price?
---No, that's, it's not my recommendation that clients buy direct from wholesalers ever.

No, but that's not my question. My question is that the reason why you've included that, that is that University "may choose to", that's the words I want to focus on, to buy directly from CSD is that if, if UWS chose to do so they may find that that was a better price?---They may well, but I'm acting under instruction there, that's not my choice to do that.

40 Okay. So, okay, I understand that. If you then go to the next email in the line, which is where you forwarded the previous email on, you there- -?
---Which page are we on, sorry?

I'm still on the same page, 812?---Right.

That email is from yourself to Paul Riordan. Now, and, and who did Paul Riordan work for?---He's the manufacturer, he's the, basically the parent company to CSD- - -

Right. Indeed---?- - -who sold the product.

And you've copied that Paul Riordan and Charlie Diekman but not to Adam Byrne and you've said to Paul, you've said to Gary Meyer of CSD, "Please speak with Charlie prior to responding." You sent that one minute later?
---Yes.

10 And then Meyers' comment to Mr Cunningham, and I know, I'm not suggesting you received that, on 1 November was, "Another comment from Daniel"?---Yeah.

My question is, why one minute after you sent an email where Mr Byrne was copied in did you then write to Mr Meyers without copying Mr Byrne in asking him to speak with Charlie before responding to the email you'd sent one minute earlier?---I have no idea 'cause I have no idea what the conversation was about.

20 Well, you know that the emails relate to your request to CSD to provide a price for each of the items listed at page 813 and a total purchase price. That's the subject of the email. Correct?---Yes.

And you've sent another email to the same person at CSD, Gary Meyers, a minute later, without copying Mr Byrne, asking him to speak with Charlie before responding, that is responding to the earlier email, one minute earlier?---Sure.

Why have you done that?---I don't know.

30 THE COMMISSIONER: Well, it suggests you didn't want Mr Byrne to know that you were telling Mr Meyers that he should speak to Charlie before responding?---It suggests that I'm telling him to speak to Charlie before responding, that's all it suggests.

No, it's not. Why did you deliberately leave out Mr Byrne?---I don't know, I don't know why I deliberately- - -

Why did you write, why didn't you- - -?- - -Whether I even deliberately did it- - -

40 Why- - -?- - -or whether I accidentally did it. I don't know.

Why didn't you put what you say in the email sent at 10.32pm in the email you sent at 10.31pm?---Sorry, say that again, sorry?

Why didn't you put what you typed in the email at 10.32pm in the email that you sent at 10.31pm? Why was it necessary to send two separate emails? One of which did not go to Mr Byrne?---Was it forwarded? I don't

know. He already got - he was receiving that information from below was he not?

He got the information - - -?---Isn't this a string of emails? It is a forward, yeah.

Yes. He got - - -?---So he's - he got the email, so he got the detail below so there's no point in, in copying that again is there?

10 That's not what I'm asking you. Sorry, you don't seem to understand. I'll ask it again?---Okay.

You sent an email on 31 October, 2008 at 10.31pm to Mr Myers and you copied Mr Byrne into that email. Do you see that?---Yes.

One minute later you sent an email also to Mr Myers saying please speak with Charlie prior to responding but you do not copy Mr Byrne into that. Do you see that?---Yes, I do see that.

20 My question is why was it necessary to send two separate emails one of which goes to Mr Byrne one of which doesn't when the one of which doesn't asks Mr Myers to speak to Charlie before responding?---I don't know.

Well isn't - obviously looks like you don't want Mr Myers to know, sorry Mr Byrne to know that you're asking Mr Myers to speak to Charlie before responding?---I don't think it makes much difference but whatever.

30 But do you agree with that, that's what - - -?---No, no, no, I don't see any, I don't see anything wrong with that, it's not - there's nothing - - -

I'm not saying there's anything wrong with it I'm saying it looks as if you don't want Mr Byrne to know that you are asking Mr Myers to speak to Charlie before responding and I'm asking whether you agree with that?---No, I don't agree with that I - - -

40 Well, well could you give me an - - -?---You look it like that but you're looking at everything through this entire process from that, from that perspective and that's wrong.

Well I'm asking you what other possible reason there could be for sending the two emails in the way you have and excluding Mr Byrne from the - being the recipient of the one at 10.32pm. What other reason could there be?---I don't know.

Yes, Mr Strickland.

MR STRICKLAND: You see in, in the 10.32 email you've added in the subject line in capital letters please read. Do you see that?---Yes.

So you are wanting Mr Myers to make sure he reads this email not simply seeing it as a copy of the previous email you'd sent one minute earlier, correct? That's why you've written the words please read?---I assume I'm getting - trying to get his attention on it, yes.

10 Yes, indeed. And you want his attention because you want to make sure that he does speak to Diekman before responding to you because you want, you wanted Mr Diekman to have an input into what price CSD was going to then quote back to you. Correct?---No. I, I - as I said to you I don't know, I don't know why I've sent that second email. It certainly wasn't to, to - - -

20 Can you think of any other reason why you wanted to alert Mr Myer and tell him to speak with Charlie Diekman other than the suggestion that I made which is that Diekman could have an input into the price that CSD would quote back to you, can you think of any other reason?---Yeah. UWS had already bought stuff from CSD so there was already price benchmarking there, there's no point in, in having Charlie's input in relation to build the prices up which is what you're referring, right because they already had a benchmark so it didn't matter. We could always go back and say well that item's \$10, that one's now \$26 why is the difference or it's \$10 and it's now \$10 beauty, it's - we had a benchmark so there's no - - -

But that's not an answer. See my question - - -?---Sure, but you're putting, you're putting inference on what you're saying and it's wrong.

30 No, this is my question?---Okay, I'm listening.

What other reason can you give for alerting Mr Myers to contact Mr Meyers to contact Mr Diekman before he responds to your email?---I don't know.

I tender that email chain.

THE COMMISSIONER: The string of emails ending with the email from Mr Meyers to Mr Cunningham of 1 November, 2008 is Exhibit 57.

40 **#EXHIBIT 57 - EMAIL STREAM WITH TOP EMAIL BEING AN EMAIL FROM MR MEYERS TO MR CUNNINGTON SENT AT 2:44PM RE QUOTATION FOR THE PURCHASE OF STOCK FOR UWS (ICAC REF: 812-814**

MR STRICKLAND: So I just want to show you three more emails. Sorry, excuse me. Can I just show you two other email strings, please? Sorry, no,

no, I've made a mistake. They're two separate ones. I'm sorry, one's for the Commissioner and one's for the witness. Sorry, my mistake.

THE COMMISSIONER: Do you wish to take an adjournment Mr Strickland?

MR STRICKLAND: I'm happy just to – just to deal with this - - -

10 THE COMMISSIONER: Mr Paul, do you wish to have an adjournment for 10 minutes?---Yes, please.

THE COMMISSIONER: Yes?---Thanks.

The Commission will adjourn.

SHORT ADJOURNMENT

[11.28am]

20 THE COMMISSIONER: Before you start Mr Strickland, Mr Lloyd, it does occur to me that there are all these emails and other documents that have been tendered that you haven't seen before and you have leave to speak to Mr Paul during the lunchtime in an effort to save time for you to get instructions on those so that we can try and reduce the time when he's finished his examination.

MR LLOYD: I understand, Commissioner. Thank you for that leave.

30 THE COMMISSIONER: Yes, Mr Strickland.

MR STRICKLAND: I just want to take you to the second email I've just shown you before the break which is the one at page 819?---Yes.

And you see – I'll take them in sequence - - -

THE COMMISSIONER: What exhibit number is that?

MR STRICKLAND: I haven't, I haven't tendered it yet. I've just shown him - - -

40 THE COMMISSIONER: Sorry, are you look at – it's a new document is it?

MR STRICKLAND: A new document, that's right. So if you go to 820 which is the first one in time, Gary Meyers has sent to Mark Cunnington, who is also a CSD employee to your knowledge. Correct?---That's correct, yeah.

And he said, "Hi Daniel, thanks for your inquiry. Below is the pricings you requested for UWS". So I appreciate it's not your email but on the face of it Gary is doing a draft email for Daniel Paul for Mark Cunnington's view. And then there's a, a table of the description of the items, the quantity and the price. And there's some – if you go to page 819 there's another table, it's the same table but the quantity is different, the actual retail price is the same but because the quantity is different to the total price is different. But what I wanted to draw your attention to was Gary Meyers sending that table at the top of 819 to Charlie Diekman, he says, "sorry Charlie, cut/paste issue. How about?" And that's the subject, How About This? Now you knew didn't you that the reason – going back to the email you sent Meyers to speak to Diekman before you knew that what Meyers was doing, was going to do was to run through Charlie Diekman first what prices he was then going to send back to you. Correct?---That looks to me like he's running past – 'cause the prices don't change, it looks to me like he's running past quantities, 'cause the quantities are the things that change.

No. He's, he's, no, the first email at 820 is from Meyers to Cunnington. That's just, that's just a draft?---Right.

20 But the email at 819 is to Diekman and what he is sending to Diekman in response to your request is a list of those items which you requested together with a price?---And quantities.

And quantities, exactly?---Right.

So he's running through Charlie Diekman the price he's proposing to offer to you?---No, that's a retail price.

30 Well, whatever the price, that's the---it's a retail price.

Yes. And so?---It's got nothing to do with Charlie Diekman's pricing whatsoever. It's a retail price.

Well, just go back to the email that you sent Mr Diekman, that you sent Mr Meyers?---Yes.

THE COMMISSIONER: Which one, which Exhibit is that?

40 MR STRICKLAND: I'm just trying to find that.

THE COMMISSIONER: Is that the- - -

MR STRICKLAND: 57.

THE COMMISSIONER: Is that 57. And which of the two are you talking about, Mr Strickland?

MR STRICKLAND: Just excuse me because I have to get other documents.

THE COMMISSIONER: Is it, is it the- - -

MR STRICKLAND: It's page- - -

THE COMMISSIONER: - - -the one at 10.31pm? Or I don't know.

MR STRICKLAND: No, it's Exhibit 57.

10

THE COMMISSIONER: Yes.

MR STRICKLAND: And it's page 813.

THE COMMISSIONER: It's the, yes.

MR STRICKLAND: 812, 813.

20

THE COMMISSIONER: Yes. Well, it's the, are you talking about the email at 10.31pm?

MR STRICKLAND: That's correct. That's, that's, that's so.

THE COMMISSIONER: And, and are, are you saying that the items on page 813 appear as part of the items on page- - -

MR STRICKLAND: 819.

30

THE COMMISSIONER: 819.

MR STRICKLAND: That's right.

THE WITNESS: No, it's incorrect.

MR STRICKLAND: Well, I'm not saying, I'm not, there, there is, I'm not saying it's completely the same but a number, let's just go through them. The, the Concept powered two-door access module in metal enclosure, that's the second item on the list at 819, isn't it?---That's right.

40

And so- - -?---So that's missing, so the Intelligent four-door access control module, seven AMP/hr battery included, 76 of, is missing. So most likely what's taken place is, is they had a conversation with Charlie and he said, you need to add in these Intelligent four-door controllers.

Okay. Indeed. But in relation to, I'm just going through what you've requested in your 10.31pm email is, you've asked Mr Meyers to provide you with a price for a number of items, the two-door access module, the Concept LAN insulator, the LAN hub board, eight-way, the universal

expander, et cetera, and in relation to each of those items Mr Meyers has provided a price which is reflected at 819. Correct?---(No Audible Reply)

THE COMMISSIONER: In other words- - -

THE WITNESS: That's not to me though.

MR STRICKLAND: Exactly, that's- - -?---Yes, yes, he's provided it, but he's also included- - -

10

Hold on- - -?---He's also included additional equipment.

Okay. He's, he's included one additional item?---That's right.

Accepted. But the point is, Mr Meyers has done what you have suggested he do, and that is run those prices through Charlie Diekman?---No, I didn't suggest that he run the prices through, I just suggested he run it past him. Now, by the look of this it was, to make sure that I didn't miss anything and by the look of this, I had missed the Intelligent four-door access control
20 modules, so probably Charlie's said to him, hey, you need to add four-door control modules to this. It's \$155,000 worth of equipment, thank God he did.

Accepting that, but he's also run the prices by Mr Diekman, hasn't he, you can see it on the- - -?---Retail prices, so what?

Well- - -?---They're publishable retail prices. Anybody can get them. It's not a big issue.

30

Well, if anybody- - -?---Charlie can't play with those prices.

I think you said before that these had already been benchmarked price figures. Do you remember saying that before the break?---No, no, that's the trade buy price, that's got nothing to do with this retail price.

But you accept don't you that UWS had never previously bought items, security items from CSD?---Yes, they have.

40

Right?---They bought, they bought hundreds of thousands of dollars worth of items from CSD. I told you that before the break.

I know you did. Hadn't they bought them from Security, Security- - -? ---Security Merchants is the wholesaler for CSD for, for, for Inner Range, yes. Same, same outfit.

But can I ask you this, what was your, when you wrote the email to Gary Meyers, your purpose was to get a price for those items from Gary Meyers. Correct?---That's right.

So why didn't he just write back to you and give you the price rather than run it through Charlie Diekman?---By the look of this it was so that I got the numbers right and the quantities and the products and by the look of this I had missed the Intelligent four-door access control modules.

10 But if the price is available to everybody, as you suggest, why did you ask Gary Meyers to provide you with a price for each of the items?---Because that's where I get it from. He's the wholesaler. Where else am I going to get the price from?

THE COMMISSIONER: I thought you said it was public knowledge?---Well from the wholesaler not from Coles or Woolworths. It's - you, you go to the wholesaler to buy the product. He's the wholesaler, he's the person you go to, to buy the product. I don't have it ready, I'm not, I'm not an integrator, I don't buy the product every day of the week.

20 Just explain to me please what was Charlie Diekman's interest in seeing the - this list that you see at 831?---See the difference from 813 to 819 there is a, there is an additional item added to 819.

Yes. But why was Charlie Diekman interested in knowing the, the prices that Myers was going to charge?---I don't care about the prices the prices are retail.

30 I'm asking you that. Why is Charlie Diekman interested in knowing the prices that Myers is going to charge?---My email doesn't say run the prices past him I say run it past him simply because and, and you can see here that he has added somewhere along the line somebody's had a conversation probably Charlie and probably the supplier to say - - -

You've said that about five times, no-one's asked you about it?---No, but you don't want the truth - - -

40 I'm asking you about something else. I'm asking you why Charlie Diekman - why was it necessary for Charlie Diekman to know the prices that Gary Myers had in mind?---It's of no consequence it's a retail price. I don't know why Charlie would want to know the retail price he doesn't sell at retail, that's a price that UWS are going to buy at.

Did you ask Gary Myers to run the prices past Diekman?---I asked him to run the, the detail past him and what he's done is picked up a missing item.

Why did you ask him to run the prices past - - -?---I didn't ask him to run the prices, I didn't say that, that's your words.

All right.

MR STRICKLAND: I tender that email, as a single document I tender the email on 1 November, 2003, 2.43pm that's just to complete - I tender the email - - -

THE COMMISSIONER: Sorry, yes, I understand.

MR STRICKLAND: From Mr - - -

10 THE COMMISSIONER: I'm just getting them together, Mr Strickland.
MR STRICKLAND: - - - Myers and Mr Cunnington.

THE COMMISSIONER: Yes. The, the email of 1 November - it's a string of emails of the - the string of emails ending with the email of 1 November, 2008 is exhibit 58 and that's the email from Mr Myers to Mr Cunnington of that date 1 November, 2008.

20 **#EXHIBIT 58 - EMAIL STREAM WITH TOP EMAIL BEING FROM MR MEYERS TO MR CUNNINGTON SENT ON 1 NOVEMBER 2008 AT 2:43PM (ICAC REF: 815-816)**

THE COMMISSIONER: And are you - and the email from - a string of - do you want me to put - are you tendering the other email?

MR STRICKLAND: Yeah. I tender the 3 November, 2008.

30 THE COMMISSIONER: Yes. The string of emails ending with the email of 3 November, 2008 from Mr Myers to Mr Diekman is exhibit 59.

#EXHIBIT 59 - EMAIL STREAM WITH TOP EMAIL FROM MR MEYERS TO MR DIEKMAN SENT ON 3 NOVEMBER 2008 AT 2:09PM (ICAC REF: 819-280)

MR STRICKLAND: Did you say 59, Commissioner?

40 THE COMMISSIONER: Sorry, yes, 59.

MR STRICKLAND: Thank you. Thank you (not transcribable) thank you.

THE COMMISSIONER: Mr Paul, can you just explain something to me, please? Mr Myers' company is what?---Mr Myers company is a wholesaler.

What's its name?---I think it's CSD if I go back to the paperwork.\

Is a wholesaler selling the kind of equipment we see in these lists - - -?

---Yes.

- - - that you've looked at?---Yes. It's, it's the wholesaler.

And does, and does Kings Security, does Kings Security supply this kind of equipment as well or not?---As a different level. On this - - -

I don't think Kings Security you'd call a retailer?---An integrator.

10 An integrator. So is that equivalent to a retailer in this context?---
Equivalent to a retailer? No, somewhere between - no, no, it's not. An
integrator takes the parts and installs them.

Yes?---A retailer – in the case of UWS buying directly from a wholesaler
they would not buy at the same prices that an integrator would buy at.
There's a margin between what the integrator buys at and what the end user
would buy at.

20 So Charlie Diekman would buy it from UWS to use in a project which is
integrating?---No, no, Charlie Diekman, Kings would buy as an integrator,
would buy from a wholesaler at a much cheaper price - - -

Yes, I understand that?--- - - - than, than what the wholesaler would sell to
UWS.

Yes, so, so Kings is a potential buyer from UWS?---No, from, from CSD.

Sorry, I beg your pardon, from CSD?---CSD or Security Merchants.

30 And, and UWS is a potential buyer from CSD?---Not under normal
circumstances.

But in this case?---But in this case they're asking about that, yes, we're
asking about that, yes.

And why was that?---Because history had shown prior to my engagement
with UWS that UWS had purchased a whole bunch of equipment from the
wholesaler at agreed rates.

40 Right?---And so I was going back asking, can you tell me what those rates
are for this particular product, please and what the, the relevant quantities.

So, so the university, so you would be able to tell the university what prices
CSD are going to charge?---No. No, no.

I thought UWS wanted to buy these, these goods direct from CSD?---They
want to see what the price is.

Because, with the intention of buying them?---Well typically, previously they had bought them, so they had previously had a benchmark there.

So why were they interested now in the prices?---I have no idea. I don't recall back then. I don't recall the detail of the conversation.

10 But either they wanted to know the prices for themselves or they wanted to know the prices in order to cost additional work which perhaps Kings were going to do?---To do budgeting or to check Kings prices against what they can buy at.

All right. Thank you. Yes, Mr Strickland.

MR STRICKLAND: Can I just show you these two emails to complete this particular segment. So in the second email I've shown you on 5 November, 2008, the first email is Diekman saying to Meyers forward this quote to Dan Paul. And the second email, the second string of emails at 824 on the bottom has Mr Meyers sending that table to you?---Right.

20 I tender both email chains, I'm sorry, I withdraw that. I tender the email of 4 November, 2008. It should be stapled together as one, one email chain. So it begins 4 November, 2008, 822, 824 and 825.

THE COMMISSIONER: The string of emails comprising pages 824, 825 and 822 ending with the email from Mr Meyers to Mr Cunningham and others of 5 November, 2008 is Exhibit 60.

30 **#EXHIBIT 60 - EMAIL STREAM WITH TOP EMAIL FROM MR DIEKMAN TO MEYERS RE FORWARDING OF QUOTE TO MR PAUL SENT ON 4 NOVEMBER 2008 (ICAC REF: 822, 824-825)**

MR STRICKLAND: If the witness could just have Exhibit 60. So this is your understanding isn't it, that Inner Range manufactured these products and CSD was the wholesaler. Is that correct?---I believe that to be the case, yes.

40 Right. And Security Merchant was another wholesaler?---No, they're the same. At some stage CSD took over from Security Merchants. CSD is owned by Inner Range, Security Merchants was the wholesaler for Inner Range for many, many years and at some point CSD came into existence and Security Merchants lost the, lost the rights to the product or something. You'll need to check with them, but it's something along that line.

Now, what I want to suggest is UWS purchased, had previously purchased items from Security Merchants?---Correct.

But had not purchased items directly from CSD. Do you agree or disagree?
---I don't know.

Okay. And the reason, and when they previously, when, when UWS previously purchased from Security Merchants they obtained a price from Security Merchants lower than the retail price?---I have no idea. I don't know what they bought at.

Okay. Okay?---I wasn't there then.

10

The answer is you don't know. Okay. Now, what I want to suggest is, given your knowledge, you, you understand pricing and the difference between retail prices and wholesale prices. Correct?---Yes, yes, I do.

And what I want to suggest to you is that the prices on Exhibit 60 that CSD gave back to you were in fact retail price?---That's what it said on that spreadsheet.

Yes. That's not the best price, is it?---The best price?

20

Well, it's not the lowest price in these, in the circumstances that would ordinarily have been offered to University of Western Sydney?---Oh, now, that depends on whether you're - -

Do you agree with that or not?---You need an answer to that?

30

Yes?---It depends on whether you are pitching for the project or whether you have the project secured. If you've got the project secured you'd drop back into retail very very quickly, right, if you were pitching for the project on the very initial stages where Security Merchants would have been providing prices, they would have spoken to the manufacturer and would have gone in at a much cheaper rate I would expect.

But you see, do you remember when I showed you an email where, which you said you'd written on instructions where UWS said that if they chose to do so, they could purchase directly from the supplier?---Right.

From the wholesaler. Do you remember that email?---Yes.

40

And, and, and you agree that they did so on instructions in order to try and get the best price, i.e., a price below retail?---No, it's not, well- - -

Do you agree with that or not?---No, I don't know what price they were seeking.

Well, they were seeking- -?---Under my advice, no, no, no, you need to, don't, you need to understand. Under my advice they shouldn't be buying direct from a wholesaler.

Well, they wanted the cheapest price?---Doesn't matter whether they wanted the cheapest price, they shouldn't be buying direct from the wholesaler, they'll get ripped off.

They didn't get the cheapest price, did they, in relation to these items?
---It's not all about price, it's about warranty and it's about support of product. It's an integratable product, it's not, it's not a commodity product like a pencil, when you buy it you've got it, you can use it and it doesn't need warranty et cetera.

THE COMMISSIONER: But as, as regards the price, they didn't get the lowest price?---I don't know.

MR STRICKLAND: Well, well- - -?---They wouldn't have got the trade price and nor should they have. They're a, they're a, they're an end user.

I, I'm sorry, I've tendered that, haven't I. So when you look at all the material that I've shown you in relation to the UWS contract, that there is, at the very least, isn't there, there's an appearance that you have favoured Kings, that is you've, before the tender process you sent a copy of a Inner Range Website link to Mr, to UWS employee, Mr Byrne, you have suggested to Kings to increase the price, you were on a panel that awarded a contract to, to Kings, you have blind copied various emails to Kings. When you look at it on paper it appears that you have assisted Kings or attempted to favour Kings. Do you, do you agree with that?---No, that's the way, no, not at all. That's the way you paint it, that's not true.

Okay. Now, I want to show you some cheques, please. I'm afraid I only know this as, because my index is P1 and P2, it's the Pollard documents. I'm afraid I just don't have on the tip of my tongue what the Exhibit number for the Poller documents is.

THE COMMISSIONER: It's Exhibit 3.

MR STRICKLAND: Thank you, Exhibit 3, thank you.

Now I just want to show you. Have you got exhibit 3 tab 2 in front of you?
---No, I don't.

Now I'm just showing you this by way of context. There are two - - -

THE COMMISSIONER: Yes. I think, Mr Strickland, I think it would be - the easiest way of referring to it is by page number because I don't think - there are lot of people who don't have tabs.

MR STRICKLAND: I'll do that.

So looking at pages 99 and 100 - - -

THE COMMISSIONER: And we're talking about exhibit 3 now.

MR STRICKLAND: Exhibit 3 tab 2.

THE COMMISSIONER: Yes.

10 MR STRICKLAND: I'm just showing you there are - I just wanted (not transcribable) cheque 3226 and then if you go over - - -

THE COMMISSIONER: That's at page 100.

MR STRICKLAND: It's at page 100 and the cheque butt for that cheque is at page 99 and then - that's for \$9000. And then if you go to page 102. I beg your pardon. If you go to page 104 you'll see a cheque which is 3228 for \$4000 and a cheque butt for that is at 322 - is at page 101. Have you seen those?---I see them, yes.

20 I think you in the court when they were tendered. Now if you, if you go to page 102 you'll see page 102 and 103 is the cheque and the back of the cheque and you'll see that the cheque at 102 says pay cash and then at the back of the cheque there's a, there's a stamp as to where the cheque has been deposited at Londonderry Post Office. Do you see that?---Yes.

Okay. On 13 February, I beg your pardon, 15 February, 2008 and that's the one for \$9000?---Right.

30 And then if you go to page 104 to 105 you'll see that that, that's the cheque and the back of the cheque and to the cheque 3228 has been deposited in the - at the Londonderry Post Office on 13 February, 2008?---Right.

And you can see that from the voucher date, that's when the bank receives that cheque - - -

40 - - - on 14 February. Okay so you have a - that's the context. Now if you could just have a look please at - excuse me. Okay. So I'll just - I'll now show you the deposit slips as to where those cheques were deposited. And these are pages 22 and 23 can you see there that the, the \$4000 - now we're looking at page 22 which has the same, the same - the Londonderry Post Office stamp at 13 February but that cheque that's the \$4000 cheque from Kings has been deposited in an account C Gent. Do you see that?---Yes.

When you mentioned yesterday that your mother-in-law was called Caroline Gent?---That's correct.

And I tender that, I tender, I'm sorry I withdraw that. Look at page 23 you'll see that there's another deposit slip again with the Londonderry Post

Office 15 February and that deposit slip is for the - is in relation to that same Kings cheque for \$9000. Do you see that?---Right.

THE COMMISSIONER: You mean both going into the account of C Gent? Is that what you're saying Mr Strickland?

MR STRICKLAND: Well no, that doesn't, page 23 doesn't indicate that, it just - - -

10 THE COMMISSIONER: No, I know that but I thought that's, anyway, I misunderstood you then. I'm not sure what you're saying about that.

MR STRICKLAND: It's the same account. If you look at the - - -

THE COMMISSIONER: The same account as what? As C Gent?

MR STRICKLAND: It's the same account as C Gent.

20 THE COMMISSIONER: Well that's what I - yes.

MR STRICKLAND: Do you see that?---(No Audible Reply)

If you look at page 23 and on the bottom there's some numbers - - -?---Yes.

- - - ending in 4607 and then if you go to page 22 and compare those numbers you'll see they're the same account numbers?---Yes.

So it's going into the same account?---Right.

30 I tender both those pages.

THE COMMISSIONER: Yes. The - - -?---Can you have those account numbers suppressed?

Yes. The deposit records from the Commonwealth Bank which are marked pages 22 and 23 respectively comprise Exhibit 61 and the account number reflected in those two documents will be suppressed.

40 **#EXHIBIT 61 - COMMONWEALTH BANK CHEQUE DEPOSIT IN THE AMOUNT OF \$4000.00 (ICAC REF: 22-23)**

ACCOUNT NUMBER REFLECTED IN BOTH DOCUMENTS SUPPRESSED

MR STRICKLAND: Thank you. I want to show you a bank statement from the Commonwealth Bank statement of Ms Caroline Gent. And if you go to page 2 of that statement which is statement page 85 you'll see on 13 February and 18 February a deposit or a credit in that bank statement and the transaction is titled POB Australian Post Londonderry, sorry, London and you can see that those two cheques have been credited into her bank account on 13 February and 18 February?---Right.

Do you see that?---Yes.

10

I tender that bank statement.

THE COMMISSIONER: Yes. The bank statement of Ms Gent, it's bank statement number 85 of Ms Gent will be Exhibit 62. The, the address of Ms Gent and, and the bank, well there isn't a bank account - - -

MR STRICKLAND: There is an account number.

20

THE COMMISSIONER: - - - yes, the bank account number will be suppressed.

#EXHIBIT 62 - CASH MANAGEMENT CALL ACCOUNT OF MRS GENT FOR THE PERIOD 1 FEBRUARY 2008-29 FEBRUARY 2008 (ICAC REF: N/A)

30

ADDRESS AND BANK ACCOUNT NUMBER OF MRS GENT WILL BE SUPPRESSED

MR STRICKLAND: Thank you. Now Mr Paul, can you explain why \$13,000 of Kings money was deposited into your mother-in-laws bank account in February 2008?---No.

No?---No. I assume, if the cheques were given to me then I assume I gave them to her.

40

Well your answer is you can't explain how those two cheques were deposited into her bank account. Is that correct?---Well as I just said if the cheques were given to me by Charlie then I assume I gave the cheques to her.

But I'm not asking what may have happened, I'm asking if you know, if you know how it was that two cheques made out by Kings made its way into your mother-in-laws bank account?---Most likely from a bet, but I don't recall.

THE COMMISSIONER: Why put it in your mother's bank account?---I might have owed her money.

MR STRICKLAND: Well is that the explanation that you owed her money and that's why it was deposited into her bank account?---It depends on what, like on what went on around that period. I know I borrowed some money from her at one stage.

10 Did you? And when did you do that?---I don't recall the details of that.

What did you borrow the money for?---For a jet ski.

I see. And how much did you borrow from her?--- I don't recall the specific details. It might have been 10 or \$15,000.

I see. And how much did you borrow from her?---I don't recall the specific details. Might have been 10 or \$15,000.

20 I see. And, and was that around about this period?---I don't know, I don't, as I said, I don't recall the, the dates.

And- - -

THE COMMISSIONER: Who did you buy it from?---Sorry?

Who did you buy the jet ski from?---I didn't. Her husband bought the jet ski.

30 I beg your pardon?---Her husband bought the jet ski on my behalf.

From where?---I have no idea where he bought it from.

MR STRICKLAND: So do you have any other explanation as to why, if it were the case that Mr Diekman paid you, gave you two cheques in the sum of \$9,000 and \$4,000, do you have any other explanation for why he would do so, other than it was for gambling debts?---I don't, I don't recall if there was any work being done around that, that period, if there was work done around that period it may have been for that, but if not, no, it would have been for, for betting.

40

But if it was for work, legitimate work that you had done, then can you explain why he has written a cash, why he has written a cash cheque made payable to cash to Chubb Security and, to Chubb Security?---You'd need to ask him why he wrote- - -

I'm asking you?---I have no, why would I, how would I know why he wrote Chubb Security? He wrote all sorts of stuff, he told you that in his evidence.

Did you, did you render an invoice for \$13,000 in relation to work that you had legitimately done for him in 2008 or before?---I don't recall so- - -

THE COMMISSIONER: You haven't produced that to the Commission, have you?---Not the, no, not that I recall.

10 MR STRICKLAND: So there's no, there is no evidence, I can inform you there is no evidence before this Commission of any record of you having done any work in the sum of 13,000 or of any amount or of you having rendered any invoice to Kings in relation to that amount or thereabouts? ---Rendered any invoice, it may have, I don't know the time frames, you guys would know it 'cause you've got it all on record, but the time frames in relation to doing the monitoring report, I don't know whether that was 2008, it may have been for that.

And do you have an invoice that you rendered in relation to that?---Well, if I got paid cash, no, I wouldn't have.

20 And so why would you have, why would you not have rendered an invoice if you paid cash, if you were paid cash?---So that I didn't have to pay tax on it.

And is that the case, that you rendered- - ?---Well, if- - -

Is that the case - I haven't finished the question - is it the case that you did work and were paid cash and did not declare that as income to the Australian Taxation Office?---I don't recall the details.

30 That's not my question. Do you want me to ask it again?---You're asking if that's the case - I don't recall.

No, that's not the question. Listen carefully?---I'll listen carefully.

Is it the case that from time to time you did work and you were paid cash and you did not declare that cash to the Australian Taxation Office?---Not that I recall, no.

40 Well, in that case, that explanation is irrelevant to this particular transaction?---Not at all.

Well, I'm sorry- - ?---Not at all. It depends on the date of the, it depends on whether that, whether that ah, ah, report was done around that date. If it was then that would have been what it was for.

So, Mr Paul, you received some summonses to produce documents, didn't you?---Yes, I did.

And the summonses requested the production of invoices and all documents relating to work done by SCI for Kings?---Yes.

Did you produce any documents in relation to that particular item?---I don't recall.

I suggest you produced no document whatsoever to support an invoice or anything like an invoice for the \$13,000 that has been deposited in Caroline Gent's account. Do you agree with that or not?---I'd agree with that in
10 relation to the invoice, yes.

Well, there's, I suggest you produced no records whatsoever relating to work you did for Kings amounting to \$13,000?---It may have- - -

Do you agree with that or not?---It may have been for the- - -

But do you agree with that?---No, I don't. It may have been, as I just said, it may have been the ah, the report that I did for them for monitoring.

20 THE COMMISSIONER: Well, you're not being asked about what work you've done, you're being asked about whether you produced an invoice? ---No, I didn't produce an invoice for it, no.

MR STRICKLAND: My question was, the last question I asked was, you produced no records at all in relation to work you have done for Kings in the amount of \$13,000. Do you agree with that?---I don't know. You've got, you've got all the records there. I don't recall what I gave to you guys, I printed massive amounts of information.

30 THE COMMISSIONER: Well if it's put to you that there is no such record according to the Commission which you have produced you won't deny that?---Well there's been a lot of stuff that's been - not been shown to us that you, you've got so I can't tell what you've got and what you don't have, sorry.

Mr, Mr Paul, I'm only asking about documents you've produced?---I know that.

40 So you can't deny that you haven't produced any record at all relating to these payments totalling \$30,000?---Sorry, please repeat that question?

You can't deny that you have not produced any document which is a record of a claim you've made against Kings for this \$30,000?---I can deny it because I don't know what I gave you. I've given you everything I had but I, I don't know what you've got, I didn't keep records, I didn't, I didn't do a duplicate record of, of everything I gave you and you're not producing everything back to us in, in this, in this hearing what you've been given.

MR STRICKLAND: I want to show you two other bank records, please. Excuse me. I can show you the St George bank account record first. I'm sorry, I'll do it the other way. I beg your pardon. I'll show you the - thank you. So if you go to the St George bank account record. I beg your pardon. If you go to - I'm sorry. If you go to the summary of transaction details can you see that there is a description of a transaction detail record of a, of a transaction in the amount of \$13,000 into Lisa Paul's account. Do you see that?---Yes, I can see that.

10 On 25 February, 2008 and that's confirmed by the St George statement which shows on 25 February \$13,000 as credited into her account?---Yes.

Under the heading loan?---Yes.

And the following day there's a cash withdrawal in the sum of \$12,000?
---Yes.

20 So that indicates that the 13,000 deposited in your mother-in-law's account was then transferred to your wife's account, correct?---By the look of that, yes.

And then of that 13,000 or \$12,000 was being withdrawn the following day?---Right.

I tender both those records.

THE COMMISSIONER: Well the statement of account from St George's Bank and numbered 82 for Mrs Paul is exhibit 63.

30 **#EXHIBIT 63 - ST GEORGE STATEMENT OF ACCOUNT OF MRS L PAUL FOR PERIOD 22/2/2008-21/03/2008 (ICAC REF: E09/0350/8/91)**

THE COMMISSIONER: Details of the bank account number and Mrs Paul's address are suppressed.

40 **DETAILS OF THE BANK ACCOUNT NUMBER AND MRS PAUL'S ADDRESS ARE SUPPRESSED**

MR STRICKLAND: So - - -

THE COMMISSIONER: Sorry, Mr Strickland, exhibit 64 is the summary of transaction details from that bank dated 25 February, 25 February, 2008

relating to an amount of \$13,000 and the details of the bank account are suppressed. Thank you.

#EXHIBIT 64 – SUMMARY OF \$13000 CREDITED TO MRS GENT’S ACCOUNT

10 **DETAILS OF THE BANK ACCOUNT NUMBER AND MRS PAUL’S ADDRESS ARE SUPPRESSED**

MR STRICKLAND: So the totality of the bank statements indicate this, a payment from Kings deposited into your mother-in-laws account, that amount then transferred shortly thereafter into your wife’s account and then 12 of those \$13,000 withdrawn from your wife’s account. Correct?---Yes.

And did you get that \$12,000?---I don’t recall.

20 So there’s a round robin from Kings to Caroline Gent to your wife and then a withdrawal. Correct?---Correct.

That is not consistent with depositing \$13,000 into your mother-in-laws account because – in repayment for a, for a debt is it?---Sorry?

That is not, that round robin that you’ve agreed to is not consistent with your evidence that the reason you deposited the money in your mother-in-laws account was because you owed her \$13,000 is it?

30 THE COMMISSIONER: For a jet ski.

MR STRICKLAND: For a jet ski?---Well that I was paying her \$13,000 for a jet ski?

That’s right. It’s not consistent with that - - -?---But that did take place. As I said I don’t know what period of time the jet ski was. If it was around the same time then that was what it was for.

40 Yes, but she’s just paid it back to your wife, the same amount?---And?
THE COMMISSIONER: The same, the same day I think.

MR STRICKLAND: That’s right?---So?

Well it’s not consistent with the reason why you say you deposited the money in Caroline Gent’s account is it?---Well if that was, if that was the same period of time that was the reason.

Well if that were the reason why has she on the same day or thereabouts transferred the money back to your wife?---Back, back to Lisa, I have no idea.

Well can I suggest an idea, which is you deposited the money into your mother-in-laws account to conceal the payment that was given to you by Kings?---No, I wouldn't think so.

10 You wouldn't think so?---No, not at all. It was a bet and Charlie paid me for bets.

THE COMMISSIONER: It was a bet?

MR STRICKLAND: What you - - -

THE COMMISSIONER: I thought it was, I thought it was for a jet ski?

MR STRICKLAND: No, no?---Not from Charlie it wasn't from a jet ski.

20 But you see I asked you yesterday when you received cheques from Kings - - -?---Yes.

- - - if you deposited them you said you deposited them into your account - - -?---I said typically, yes.

Yes, typically?---Yes.

30 So, and the reason you gave for depositing in your mother-in-laws account was to repay a loan for a jet ski?---Or pay upfront for a jet ski, yes.

But that doesn't make any sense when on the same day or thereabouts she then withdraws the same amount of money and transfers it to your wife's account does it?---Well it doesn't make sense because I ended up paying for half the jet ski, but that's another story. I don't need to go into the detail of that do I.

See I want to suggest to you that the payments in relation to the jet ski occurred in February 2011, not February 2008. What do you say to that? ---As I said I don't recall the dates.

40

Well I'm putting to you and I will in due course tender you the relevant documents, but I'm giving you an opportunity now to, to answer the question that the jet ski money occurred three years after this, in 2011 not 2008?---It may well have, I don't recall the dates.

Well if that's the case, assume that's what the records show, I mean there's not more than one jet ski is there?---No, not to my knowledge.

So assume that's the case, how do you explain depositing \$13,000 of Kings money into your mother-in-laws account?---Well it was a repayment of a bet from Charlie.

No. My question is how do you explain, give that you typically deposited the bet money into your own account - - -?---Well I didn't typically deposit in my own account. If you go back to the records it's typically put on to Harvey Norman or, or American Express isn't it, it's not deposited.

10 I asked you about cash cheques and where you deposited them you said typically your own account or a joint account with your wife?---Right.

That's your answer in your evidence yesterday?---Right.

MR STRICKLAND: Now my question is given that the jet - if you assume the jet ski was in 2011 - - -?---Right.

20 - - - how do you explain why you deposited these cheques into your mother-in-law's account?---Yeah. And I said typically I would deposit in my own account. Here I haven't, I've given it to my, my mother-in-law to, to bank, right.

Why?

THE COMMISSIONER:: Well can you explain why?---I don't know why.

30 MR STRICKLAND: Well can you think of any other reason other than to conceal the fact that you received \$13,000 from Kings? Was it a Kings cheque? I've shown you the cheque?---It was a cash cheque was it?

I've shown you the cash cheques, they are from Kings, two cheques, one for nine - - -?---So, so probably - - -

One for \$9000 and one for \$4000?---Right. So probably to conceal it but it was for a repayment of a bet so that the Kings cheque didn't go into my account.

40 So if it was probably for a bet - - -?---Well it was - no, it wasn't, it was definitely for a bet.

I'm sorry I withdraw that. If it was probably to conceal it - - -?---Right.

- - - why do you need to conceal someone that's paid you money for a legitimate bet?---Well I don't know. Back then I probably was thinking I shouldn't have a Kings cheque or something, I don't know.

Well you've made a bet with someone?---Mmm.

Correct? Was that for a rugby league match was it?---No, I can't remember what it was for.

It was 2008, okay. Well apart from pool and rugby league what else did you bet on?---Horses.

Okay. So, so you - - -?---Snooker, probably, yeah.

10 You had a bet, there's nothing illegal or improper about a bet is there?---No, there isn't.

And then some - and then Charlie pays you for the bet, there's nothing improper about that is there?---Correct.

In that case that being so why was it as you admit you probably concealed a payment of it?---Back then in 2008, yes. Because I saw it as a, as a Kings cheque and maybe somebody might look at that as if it was, as if there was something wrong with it, albeit it was for a repayment of a bet.

20

Who's the someone that might have looked at it as being something wrong?---I got no idea.

Well it was your - the, the notion of concealing is something in your mind not anyone else's so the only person who could have an idea as to why you concealed something is you. Do you agree with that?---Well you, you stated it.

30

No. I'm sorry, sir?---No, you did.

You said, no - please don't interrupt me. You said that you probably concealed it?---After you stated that, yes.

Well you did agree to it didn't you?---I don't know why I did that.

What I'm asking is the only person that knows why you probably concealed the transaction is you?---If that was the reason that I did it that way, yes.

40

See this was, this was the time when the, the 25 February or February 2008 what was going on in your life vis-à-vis Kings at that point in time?---I have no idea.

Well you just completed the UWS, the UW - you were in the middle of the UWS contracts weren't you?---What, it was a project running was it?

Well I'm asking you?---Is that what the - I don't know I don't recall the dates.

See isn't it the case that Kings gave you money, gave you a bribe for their favour in assistance you had given them in relation to contracts that you had awarded them or ongoing contracts?---Absolutely not.

And that's the reason you concealed it?---Absolutely not.

I want to ask you some questions about the Art Gallery. I just wish to tender a bundle of documents which I - simply related the year 2008.

10 THE COMMISSIONER: Shall we call them a bundle of 2008 Art Gallery documents?

MR STRICKLAND: Yes. Thank you, Commissioner.

THE COMMISSIONER: That'll be exhibit 65.

#EXHIBIT 65 - BUNDLE OF DOCUMENTS ON WHICH MR PAUL IS EXAMINED RELATING TO THE ART GALLERY OF NSW

20

MR STRICKLAND: Just want to - before I go to the - I'll ask, so that was exhibit 65 was it?

THE COMMISSIONER: Sixty-five.

MR STRICKLAND: Thank you.

30 MS BELLINI: Commissioner, I'm yet to receive a bundle and without seeing them I'm not sure if the Art Gallery is going to have any suppression orders over them. But if we - - -

THE COMMISSIONER: You have plenty of time to ask for them.

MS BELLINI: We can do that in writing if you prefer as well, Commissioner.

THE COMMISSIONER: Thank you.

40 MR STRICKLAND: I want to ask you about your relationship with Anthony Morris. You met Anthony Morris when he worked at Westfield. Is that correct?---Correct.

And what was he doing at Westfield at the time?---From memory he was the security manager at maybe Chatswood I think.

And how did you - what was the context in which you met him?---I was the security consultant for Westfield nationally and so I travelled to various

different centres to review their security, advise on CCTV and access control and all that.

Okay. So did you build up a, a good working relationship with Mr Morris?
---I didn't Mr Morris that well back then, so I visited him maybe once or twice. But I certainly wasn't, wasn't friendly with him as in we weren't friends in the sense of the word, just work colleagues, I suppose in relation to me providing consultancy work for them.

10 Okay. I just want to go through some of these documents. I just want to take you to Exhibit 65, tab 1 first. Now I'm not suggesting that this document had anything to do with the Art Gallery as such, but just have a quick look at that. There's just one line I'd like you to – perhaps you, you definitely need to look at page 99 because this is a reference to a CCTV shootout?---Yes.

20 And just very briefly what's a CCTV shootout?---A CCTV shootout is essentially a product assessment and review of various different – in this case it was either digital recording equipment or cameras. We do different types of shootouts where we put one product against another or a number of products against each other, we invite, and when I say we, I mean I, as the consultant on behalf of the clients that I'm acting on behalf of, invite a range of their representatives in to do a blind assessment. That is they don't know the products, they don't know the make or the model, they just see the results of the shootout and they score them on assessment sheets that I provide them and then we collate the assessment sheets and we come up with the results of which products, by visually checking them, are, are rated.

30 Okay. Now if you go to tab 1 and then at tab 2 because they're related, can you see that you invited Tony Morris to that shootout on 1 July, 2008?
---Yes.

And then at tab 3 you – it's an email about that shootout. Is that correct?
---Correct.

So is there any particular reason why you invited Tony Morris to the shootout?---What was the date of it?

40 The shootout was on 1 July, 2008. You'll see that at tab 2?---I must have been speaking with Tony at the Art Gallery I would assume in relation to their security, quite possibly.

Okay. Four days, sorry, 12 days later if you go to tab 4 you have submitted, you've submitted an expression of interest?---There's your answer.

Yes?---Yeah.

Now were you invited by Tony Morris to submit an expression of interest for – to provide professional consulting services for the Art Gallery?---I discussed it with him and initially I provided a proposal and that proposal was, was ultimately rejected and they went to tender instead.

So you knew on 12 July, 2008, that Mr Morris was the head of security at, at the Art Gallery. Is that right?---Of course.

10 Now, if you go to tab 5 you can see that, as you've said, that this was put out to tender, or the consultancy service was put out to tender. Is that correct?---It was ultimately, yes.

And do you recognise that, and I don't need you to read it entirely, I simply want you to recognise, if you can, whether that is the tender document for that security upgrade consultancy?---Yes.

20 Thank you. I should just mention for those who have the bundle that there are some tabs missing, Mr Commissioner, for example tab 6. The reason for that is some of them have been tendered in other documents and there's no point in repeating them. So that's why they're missing.

THE COMMISSIONER: Yes, thank you.

MR STRICKLAND: If you go to tab 7?---Yes.

That is your proposal in response to the tender document. Is that correct?
---(No Audible Reply)

30 THE COMMISSIONER: It's the letter?---Yes, it is.

MR STRICKLAND: The letter. And attached to the letter is your proposal. Is that correct?---That's correct.

If I could just take you to page 145, please, of that document. Under the heading, Paragraph 5, Development of a Technical and Performance-Based Specifications, you've recorded there, "Security Consultants International is an accredited tender assessor to NSW Government tender and procurement standard"?---I was, yes.

40 Right. And you were at that stage, were you?---I don't know that it lapses, so yes.

I didn't understand that answer?---I've, I've undertaken a course in tender assessing and scoring tenders when I was back with ah, doing some consulting work for Sydney Water.

But as at the date you submitted this proposal, were you at that date an accredited tender assessor to the New South Wales Government tender

- - -?---To my knowledge, yes.

Now, your, if you go to page 152, you, your, the price you submitted was \$24,980?---Yes.

That was a very low price, wasn't it?---Yes, it was.

And did you offer that low price because you wanted to secure the tender for the Art Gallery, being a prestigious project?---Correct.

10

Something like a loss leader?---A loss leader, I told you, I told the Commission before, yes.

And if you go to page 155- - -?---In addition to that loss leader they were getting the shootout results for no additional cost where normally there would be a cost to doing a product shootout, so I appended that to it and said I'm happy to provide you with this at no cost.

20

Okay. Go to 157. Is that your signature in relation to this confidentiality agreement beginning at 155?---Yes, it is.

And did you understand, I assume you read this confidentiality agreement. Is that correct?---I don't recall.

Did you understand that you could not disclose any information to third parties, unless the information was already known to the public, without the consent of the Art Gallery?---To a greater or lesser degree, yes.

30

What do you mean by to a greater or lesser degree?---Well, you say you can't disclose any information. I was doing product shootouts on, on site at, at the Art Gallery which meant disclosing information to wholesalers and manufacturers at the time so, so is that confidential information? I used Q Video to assist me in, in developing budgets and so they knew the quantities of cameras and types of cameras I was using because they were down there doing shootouts with me and Tony Morris. Is that confidential information?

Well, okay, you say the quality of the cameras what, you say would not be confidential information. Is that correct?---I wouldn't think so, no.

40

But the price certainly would be wouldn't it?---I mean the confidential - - -

Hold on, hold on, listen to that, the price certainly would be wouldn't it? ---The price of what?

Well an Art Gallery, an Art Gallery budget for the price of the cameras would certainly be confidential information wouldn't it?---Not for a wholesaler, they're the one I'm asking the price from.

Okay. Well - - -?---For an integrator yes, absolutely.

I see?---It's a different - - -

10 So you could disclose to a wholesaler you say the budget that the Art Gallery has for the price of cameras. Is that right?---We didn't have a budget. We were developing the budget. It wasn't about what budget the Art Gallery had, they didn't have a budget. The budget I knew was what – know what was it, the one out of the BRO report. So that was all I knew that the budget was. It was – I had to go back and work out what the budget is, what we could get into the, get into that budget if you like or what do we need and what was the cost going to be.

20 But let's say you, you as part of – as a security consultant budgeted for say, just a figure out of the air, half a million dollars worth of cameras. Okay, let's say that was your part of it, you've worked up, you're the technical expert, that was your budget. But surely you wouldn't provide that budget detail to a wholesaler, that is in nuts and bolts because you would if you could get a cheaper price than what you budgeted. Isn't that right?---No, no, no, not at all. They're the ones assisting me developing the budget. You see in this case Q Video handled both the Verint product and the Pelco product so they were ideally situated to help me build the budget. It's not just for cameras it was for the system, for the recording solution, for the hard drives, for the analytics, for all the network components to go in it. And they are the suppliers of that wholesale equipment. So yes, they'd know everything.

30 Okay. Just on the confidentiality agreement can you just turn please to page 158. And can you see, is that your signature on the bottom of that page? ---Yes, it is.

And there's also – if you look at clause 10 and 12 there's a confidentiality agreement on that page as well. Is that correct? A confidentiality clause. Is that correct?

THE COMMISSIONER: Well clause 10 speaks for itself.

40 MR STRICKLAND: Thank you. On page 188 of your proposal you include the CPP Code of Professional Responsibility. Do you see that? ---Yes, I do.

And what does CPP – I beg your pardon. And you are familiar with that code. Is that correct?---Relatively, yes. Although I can't, you can't read it on this, it's illegible.

I understand that, but, but you say – you included it so I assume you are familiar with it?---I am familiar with it, yeah.

So if you go to tab 8 on 21 August – I beg your pardon. On 21 August you were awarded with that consultancy contract. Is that correct?---Right.

Now can I then get you please to go to tab, if I can get you to go to tab 11 and that's on 3 October, 2008 you've emailed Tony Theissen and Paul Thompson, they're employees you knew from – who worked for Q Video. Is that correct?---That's correct.

10 Q Video Systems. And how long have you had business relationships with Q Video Systems?---A few years.

All right?---What do you mean business relationships? They're a wholesaler.

Yes. Well how long have you had commercial dealings with them?---What do you mean commercial dealings? Explain that.

20 Well had arrangements to purchase, for them to supply you with security products and - - -?---I don't buy any products. I've never bought products.

What do you say were your dealings, in the broader sense of the word with Q Video Systems?---They're a wholesaler so I deal with them to get an understanding of the products that they're selling, the prices that they sell at, the warranties they provide, the services, the backup services that they can provide to me end users and relevant detail on specifications if we choose to use their product in or any of their products in specifications.

30 THE COMMISSIONER: And sometimes you recommend to your clients that they buy products from Q Video?---Not at all. They don't buy directly from Q Video, Q Video's a wholesaler. That's why I mentioned that earlier with Security Merchants, I don't recommend to any of my clients that they buy direct from a wholesaler.

40 But you recommend to integrators then?---I don't recommend to integrators, integrators can buy from whoever they want. I always stipulate that the product needs to be non-proprietary, that means that the integrators must be able to go out to, or sorry, the, the ah, the end user must be able to go out to tender for services and, and support so that they're not locked into one supplier, one integrator.

MR STRICKLAND: In a contract such as this at the Art Gallery- - -?
---Yes.

- - -it's ultimately the integrator that decides which wholesaler or which supplier they're going to use. Isn't that right?---Yeah, absolutely.

That's not your decision to make?---It's not, not, not my decision to make, no, no, except that if, in this case Q Video were the only supplier,

wholesaler of the Verint product, then that would, that would have any, any of the integrators buying through Q Video.

I see. But then in other words if you decided that the Verint or if your recommendation was that the Verint product was the one to use and that recommendation was accepted, then you're saying that would necessarily mean that Q Video Systems would be the supplier. Is that correct?
---But, but I don't do that, I always state that it's that or equivalent, and that allow us to go to a more flexible arrangement- - -

10

I understand---?- - -so that we're not forcing anybody down any one path.

I understand that, but just answer my question?---I'm sorry, can you repeat the question?

If it was your recommendation to the Art Gallery or to the integrator that the preferred product was Verint and Q Videos was the only, and that recommendation was accepted, then that would necessarily involve Q Videos being the supplier for that product. Is that- - -?---If it was the only product I recommended, yes.

20

Okay. Now, and, and to your knowledge was Q Video Supplies the only wholesaler or supplier for Verint security products?---I'm not sure whether Verint themselves sells, sold to some of the integrators, they may well have.

Did Verint have an Australian base?---Yes, they did.

And who, and who was that?---Verint Australia I believe.

30

Right. But who, I'm sorry, which, did you know the principal of Verint Australia?---I don't recall his name but Steve, Steven Johnston was there at the time, a guy by the name of Steve Johnston was their key guy.

And would there, was there any advantage for you to deal with Verint Australia directly in order to have their products used for the Art Gallery?
---No, because we, we weren't we weren't set on their product.

But it undoubtedly was the preferred product, wasn't it?---No.

40

It's stated in the specifications?---No, it was, it was written around Verint as a benchmark.

THE COMMISSIONER: As the benchmark product.

THE WITNESS: As a benchmark product. That doesn't mean it's the preferred product. The preferred product ideally was, was probably Pelco.

MR STRICKLAND: Just what's your understanding of the meaning of benchmark product?---It was what I wrote the specification around, as a, as a minimum, minimum benchmark what it needed to meet in a, in a performance-based spec, it had to meet that or be greater than that.

I see?---Or equivalent.

I note the, I note the time. Is it a convenient time?

10 THE COMMISSIONER: We'll adjourn till 2.00pm.

LUNCHEON ADJOURNMENT

[12.59pm]