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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 2.15PM

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

THE COMMISSIONER: Mr Strickland, I propose, unless there is an objection from anyone, to sit until 5.00 today. Is there, is that in order?

MR STRICKLAND: I'm sorry, Mr Commissioner, I just, I can sit till 4.30 but I'm afraid I could not do it and that would cause me some difficulty, not just with this, I just didn't anticipate, I didn't anticipate, thank you.

10

THE COMMISSIONER: We'll sit until 4.30 but I should give notice that because of concerns that I have that we won't finish in time I propose from now on to sit longer hours. I will try and sit until 5.00 most days and I think I'll start tomorrow at half past 9.00. Yes, we might do without lunch by the time we get there, anyway. Yes, Mr Strickland. We will adjourn at 3.15.

MR STRICKLAND: I just want to take you please to tab, to tab 11 please.

THE COMMISSIONER: So we'll go till 4.30, sorry.

20

MR STRICKLAND: Thank you, thank you.

So I'm still on Exhibit 65, tab 11. If you're able to recall, Mr Paul, is that email that you wrote to Mr Theissen about the testing of cameras from the scissor lists on Thursday, does that relate to the Art Gallery security consultant contract? I'm sorry, does it relate to anything to do with cameras for the Art Gallery?---Yes, it does.

30

And was, at that point in time Q Video Systems didn't have a contract, there was no arrangement that Q Video Systems would supply anything for the Art Gallery, is that right?---No, not at all.

These were preliminary discussions?---Correct.

Thank you. Will you go to the next tab, 12 - I'm sorry, just to go back to tab 11 and Mr Marks was in the loop in relation to those preliminary discussions because he's copied into the email?---Regardless if he's copied into the email, yes, he's in the loop.

40

Yes. And then in relation to tab 12 the second email from Theissen to yourself, there's a reference to Dan - Theissen's referring to Endura, I will start putting this together and that's, if you look back into the previous emails - perhaps I should start with the 3 October email which is at page 250, and you say you're preparing a budget for the Art Gallery, I need to know the trade price on the Verint products. Now, the trade price is different from the retail price, isn't it?---Correct.

It's a lower price?---Correct.

And usually a significantly lower price?---Oh, usually, yeah, yeah.

If you look at the, if you look at the pages 251 to 253, do you recognise those, do you recognise what they refer to?---Yeah, they're components of budgets that were put together. They were Tony Theissen's sheets, not mine.

10 Yes?---Yes. Do you want me to give you an explanation of how a budget's put together?

Yes please?---Okay. So what happens is I might come up with a placement or recommendations in relation to the types of cameras we're going, going to use across the Gallery, in this, in this case we'll talk about the Art Gallery, across the Gallery, where we place them, what types they might be, that might come as a result of testing on site as well. Then at the end of that I choose a range of product or a range of outcomes that I'm looking for in relation to the performance of that system and try to mesh it as closely as possible with a system that, that might meet the need. In this case the Pelco  
20 met the need except that it didn't do megapixel on its current version, it was doing that on the next version, being version 2 and Verint met most of the rest of the requirements. So what happened was we talked to, to Tony Theissen or I talked to Tony Theissen about , about the quantities of cameras, the types of things that I'm looking for and because he's the wholesaler asked him for the trade prices. Then what I do with the trade prices is I put them into a spreadsheet of my own, what I call a technical estimate sheet which will add labour to it, which will add mark up or the typical standard mark up of a, of a contractor and, and that will ultimately end in a result price that I would then use as a, as a install budget price.

30 Okay. Now, just go to page 248, Thompson writes to you saying, "Would you like the same for Endura as a comparison," do you see that?---Yes.

So is this the case, that Endura is the brand name of a product?---Ah, it's the, it's the, it's a version name of a, of a, of a brand. Pelco is the brand.

Yes?---Right.

40 And Endura is one of the products - - -?---It's a model, yeah.

- - - under the Pelco brand. Is that correct?---Yeah.

And what you'd been previously discussing was Verint. Is that correct?---On this occasion, yes.

Yes. So when he says would you like the same for Endura as a comparison he's meaning as a comparison to Verint?---Yes.

Okay. And then if you go over to page 247, I'm sorry, your reply to his request is, "thank you, great stuff. I'll discuss the camera selection on Thursday". And then he says, "Endura, I will start putting this together. Please note this will be based upon an analogue camera solution" et cetera. But that's the first email, the second email on page 247?---Yes.

10 So in other words Mr Theissen is emailing you that there's a two track policy at this point, there's one for Verint when prices and particular camera types are being considered but there's also a separate track for the Endura product. Is that - - -?---Oh there's probably numerous tracks.

Just, just, I'm accepting that?---Sorry.

But just I'm looking on the basis of this email chain, what I put to you is correct isn't it, that he's also now considering for your, he's going to research for your consideration Endura products. Is that correct?---We would have had several telephone conversations or meetings about it.

20 Yes?---So it's not necessarily him putting it forward to me although it looks like that from this.

Yes?---It's a general conversation that we're having, yes.

Well accepting that, there's a, there's a discussion which is both by phone and also recorded in email about him doing research for you for the Endura product. Is that correct?---Pricing research and product research, yeah, yeah.

30 Right. So even at this early stage in October 2008 it was in your mind that the final product that might be offered the Art Gallery would be an Endura product?---Yes.

And did you have a view at that stage that Endura would be a better product than the Verint product?---Yes.

Now – and the product I'm referring to is the CCTV cameras. Correct?  
---No.

40 What is it?---There's cameras and to make up a system there's the software.

Yes?---There's the recording hardware and there are cameras. And Endura is a, is a version of software that is, that is Pelco's, well at that time was Pelco's latest and greatest.

Just so we understand it, what – the software comprises – what does the software comprise of? What is it?---Sorry?

Well can you describe what are the component parts of the software?---The software for Endura?

That's what we're talking about, yes?---Yeah, it's the, it's the firmware which is, which is effectively the, the software or the programming that goes into chips, into electronic components. And the head in software, being the user interface, what you use as Windows or whatever, is a software, right, so it gets loaded on, on to systems. But with, with Pelco it was a combination of components to make up that software solution.

10

But it includes the camera doesn't it?---No.

It doesn't?---No. The camera is separate.

Okay. But - - -

THE COMMISSIONER: Does the software go into the camera?---No. No, you've got cameras here, these are Bosch, the analogue cameras. You've got a CCTV system that displays here. The camera could be changed out for a Pelco, it could be changed out for a Sony, it could be changed for to any number of different brands and still work on that same heading.

20

Where do you put the software?---On the computer.

On the computer?---Yes.

MR STRICKLAND: Can I just ask in this particular case because you ended up with a Pelco product. Correct?---Yes. We ended up with a Pelco/Endura solution but not all of the cameras were Pelco.

30

But the majority of them were Pelco weren't they? Isn't that right?---I'd need to do the - no I don't know.

Well a good number were Pelco cameras. Do you agree with that?---No, no, no, not necessarily. A good number ended up being Sarix, but yeah, which was the Pelco megapixel, but that wasn't the - - -

But in terms of the - - -?--- - - - wasn't, wasn't the driver at the beginning of the project.

40

Just to put it in real terms when, so at the Art Gallery you have people in a control room looking at a number of screens don't you?---Correct.

And if they want to look at a particular gallery - - -?---Gallery or whatever, yeah.

- - - then they can press various switches and look at that, look at the screen and - - -?---Relevant to the cameras that are in that gallery.

Precisely?---Correct.

And it's the images produced on the screen together with the software allowing the control operators to flick from room to room or do whatever they want that's the software that is Endura. Is that correct?---Not the cameras but the software, yes.

That's what I'm saying?---Yes.

10

But is, is the computer software of the controllers and their controller who operates it that they can use cameras or images or do whatever they need to do to operate the whole security apparatus. Is that correct?---CCTV apparatus.

CCTV apparatus?---Yes.

Which is separate from access control which is people going - people using swipe cards to go through doors or - - -?---Correct.

20

Yes.---Like your CCTV system here is separate to your access control system.

Thank you. Yeah. Okay. Thank you. Now if you go to item, sorry, tab 14. And the precise content of the email I want to ask you about is not as important as the fact that there was correspondence but the first email is from Tyson to Michael Siccita. And who is Michael Siccita?---He's worked for Q Video in their head office in Melbourne.

30

Okay. And again they're exploring various technical options in terms of cameras et cetera?---Yes.

That's email to you and then you thank him, this is in your top email on 31 October, and you say that it might be beneficial for you to visit the Art Gallery because you say at the fourth last line, as well as give you greater understanding of the needs?---That's right.

40

Now at that point in time was it your understanding that Q Video Systems was going to be the supplier of security products for the Art Gallery?---No, not at all.

But they were doing a lot of work weren't they and you were inviting them to actually come along so they could get a greater understanding of the needs of the Art Gallery. Are you saying it wasn't your expectation at that stage that Q Video Systems would be the supplier/wholesaler?---Not at all, no.

Well was there any other - now just so I can get the terminology, we're on the same page of terminology are you - do you - are you referring to Q Video Systems as the supplier?---The wholesaler.

The wholesaler, okay. Was there any other wholesaler that you suggested should come to the Art Gallery so they could get a greater understanding or a - or an understanding of the needs of the Art Gallery?---I had Lenel at the Art Gallery, yes. At some stage I had Austar at the Art Gallery in relation to - - -

10

THE COMMISSIONER: Are they wholesalers?---Yes.

But do they only - does Lenel only sell Lenel products?---Lenel does, yeah.

But Q Video sells a range of products?---That's right.

So did you have any other wholesaler there who sold a range of products? ---Yes.

20

Who was that?---I had Hill Industries, I had Das there or not Das but Pacom there looking at product, I had as said Austar there who sell CCTV product in direct competition to Q Video.

A range?---Yeah, absolutely.

MR STRICKLAND: You mentioned Austar, is that right?---Yes.

And that's Morris Ciot?---That's correct.

30

C-i-o-t's company?---That's correct.

And was he the person you invited?---It wasn't his company he was an employee there, yes.

What was his role, so what was - - -?---No, I don't know that it was him that I invited, I think it was Peter Gorry at the time 'cause he was the technical guy, Morris was the sales guy.

40

Okay. Was Morris the main person you had dealings with at Austar?---It depends on what - - -

In relation to this matter?---No, Peter Gorry was.

Okay. Now if you could go please to - just excuse me for moment.---Well to my - to the best of my recollection anyway.

Now if you go please, to tab 15 and - - -

THE COMMISSIONER: So do wholesalers just come along in the hope that somebody's going to buy from them?---Prospecting, absolutely, yeah.

And, and but what - if they, if they were selling the same or similar products is - does it depend on the price that they were offering?---No, it depends on the performance of the products that they're offering, the service that they provide, the price, the warranties that they provide, they after sales support that they provide to the, to the (not transcribable) user, there's a great range of different, different values that they owe.

10

MR STRICKLAND: Go to tab 15 please?---Yes.

And it's an email from yourself to Tony Theissen?---Yes.

And this is, now you've attached a spreadsheet that you in fact have been, you in fact prepared, is that correct? That's, that's at pages 264 to 270?  
---Version 2 of the budgets that I was preparing, yes.

20 Right. And you've emailed him that and you've said, "We are 300K over right now." What did you mean by that?---What I normally do is tell them a fake, a fake budget and - - -

Sorry, you said them, who's them?---Them, the wholesalers.

30 Yeah?---Right. So that they've got a target to work around and if they come back with, with a particular price, on this occasion I've told them that we're 300K over to get them to tighten their prices so that I can effectively use some real prices because if they know the budget, if they know the exact budget they may fill that budget with, with, with various products and so rather than telling them exact detail I, at this stage anyway, at the early stages, I like to keep the, the numbers a little bit grey.

So what you've told is you have told them something that's literally not true, I'm not criticism of that, that is you're 300K over the budget - - -?  
---Yes.

- - - and you were doing that so you can hope - that's correct, is it?---Yes, it is.

40 And you were doing that so that they can quote you a price that will fit within the budget?---No, that will better reflect what, what we would get when we go to tender. You see, they'll sell to the, to the integrators and when it's at tender the integrators then will put their margins on it but at that certain point at tender, these guys, if they're not competing with anyone may, may go into a higher price so what, what, what this means is that they won't into a higher price if they've given me a, a tighter budget.



You said if they're not competing with anyone but in this case to their, to their, in their, their understanding they would be competing with other people?---Absolutely they would be, yeah, yeah.

So why did you write in capital letters, "do not email this around"?  
---Because I don't want other people, I don't want any integrators or anybody else to see this, this is something that they're working on with me.

10 Right. But if you're - wouldn't you email the exact same thing to other wholesalers who you were seeking to attract as part of a competitive process?---I didn't need to. If these guys, if these guys are providing me prices for Pelco they're going to be competitive. It doesn't matter whether, whether they provide me a price for a dollar or a price for \$10, when it goes to tender if there's three places you can get Pelco from, it's going to drive the price down.

20 Why is the case that you simply can't say to the wholesaler look, these are the number of cameras I need because that's not something that they would necessarily know?---Sure.

And you may give advice to your, to your technical expertise about the types of cameras?---Yes.

30 You tell me your best price, because this is a prestigious project, I'm buying in bulk, it's a lot of money, you give me your best price?---Because the cameras are the, are the easiest part to, to deal with so doing that on a camera, saying give me a price for a five megapixel or a one megapixel camera is very easy, subject to whether it meets the quality of the shootout et cetera in the, in the selection process of the cameras but here, this is not just a camera, this is a solution, it's an integration solution - - -

I understand?--- - - - so we're looking for the recording systems, the analytics and all of the relevant performance based requirements that, that we've nominated within the tender.

But why can't they give you a best price for all of those components?  
---They do.

40 But why give them a budget to assist them in - - -?---No, no, no, sorry, misunderstanding. I don't give them a budget, we worked on the budget together. I, I give them a quantity of cameras, I say there's, I think in one of the emails here it says, let me read it, 220 cameras or whatever it said, I don't know where it is.

Are you looking at a previous email are you?---Yes. You showed me a minute or two back.

Yes. I think it's the, I think I now the one you're talking about. But go on?\

---If I can find - - -

MR LLOYD: 250?---Thank you.

MR STRICKLAND: I'm indebted to Mr Lloyd.

MR LLOYD: Exhibit - oh, it's number 12?---Number 12, let me find that.

10 MR STRICKLAND: Yes, thank you. It's tab, tab 12?---Thank you. So here on page 249 the twelve and a half images per second, the timeframes, the 220 cameras, 50 per cent analogue, that type of information is what I'm giving them because that's the type of information that, that they need to help me develop a budget and develop the components that go into a system. All right. They're all, they're all variables, they're system variables that, that depending on the outcomes of what we're looking for for the client they change massively.

20 Okay. Just going back to tab 15 where you've attached the budget spreadsheet and you've given them, you've given Q Video Systems some information about - in effect about what the budget is. I mean I understand you say that it's a false budget statement, but - - -

THE COMMISSIONER: What is false? Is the 300k false or are the - well what is false here say for example page 264, what's false there?---No, 263 is false. I'm saying you're 300k over budget.

That's what's false?---That's what's false, yes.

30 There's nothing false about 264. Am I right?---No, there's nothing false about that, no. But that's only version 2 of the budget, we hadn't quite reached the end yet, we were still working on it. It's flawed at this stage.

And does this eventually, is material such as the material in 264 eventually used by you to compile the specification?---Content of that, yes. In particular - - -

Isn't that - - -?--- - - - information that they would feed - sorry.

40 Isn't that, yes, sorry?---In particular information that they would give me as a result of that. We'd be talking about the types of product so here in line 15 of that particular page - - -

Yes?--- - - - 264, you can see it says Panasonic 284, now that was a particular camera that, that went well in a shootout previously. So we nominated it in here. Right. And so those sorts of things are that goes into making up the budget.

What is a budget, a budget for what?---The budget that I was preparing to give to the Art Gallery. Part of my role - - -

So, so that they can decide how much money they are going to spend on the contract?---Well I don't know, I don't recall what their budgets were. They had a report done by - - -

10 No, no I'm sorry, I think we're at cross purposes. I'm asking whether you give the Art Gallery a budget that you've worked out containing material of the kind one sees on 264 to enable the Art Gallery to make an informed decision about how much they are prepared to spend on the contract?--- More likely how much it will cost them to get that result.

To get them the result of what you conceive of as being the preferred solution?---Correct.

20 So is this – does this not – the information of the kind on 264 would that not assist Q Videos in calculating what prices they should sell their, their products to, to people who are wanting to tender?---No. Because they've already given me the numbers before that, before that gets to them. That's actually got their numbers in it. I used their numbers, the numbers that they've already provided me as their trade price numbers, that's what I put into this.

30 Yes, but doesn't that enable them – if they know that you've accepted those numbers they know what you've accepted as being the preferred prices for each item which they have told you about or which they have told you?--- No, they're not preferred prices because it goes to tender which – and they themselves - - -

No, I understand?--- - - - are up against everybody else. So it's a point, it's a point in reference is all it is.

I understand that. Preferred prices is inappropriate, I meant the prices on which you were prepared to advise the Art Gallery as being the prices, as being a range of prices which they will have to pay in the end to get the preferred solution?---No, it's an indicative cost. Because when it goes to tender - - -

40 All right. It's an indicative cost of the preferred solution?---Correct.

Is that not useful information for someone to know who wants to tender? ---Not particularly, no. In many tenders, in many Government tenders they'll, they'll actually nominate the, the actual budget that's out there, doesn't mean you're going to pay that at all.

But isn't the budget confidential?---Well the budget for, for the Art Gallery?

Yes?---Well I needed to prepare it so I needed to work with somebody to prepare it.

I'm not criticising you for that I'm just asking whether the budget for the Art Gallery is a piece of confidential information?---Confidential in relation to an integrator, yes.

Yes, Mr Strickland.

10 THE WITNESS: It's in the wholesaler's best interest to keep that to themselves as well.

MR STRICKLAND: Did you - just going to back to 263. Tony Morris is not copied into that email. Did you advise him that you were going to show a budget spread sheet to Q Video Systems?---I don't know that I'd shown this to him yet. It wasn't, it wasn't a budget spreadsheet at that point because we were still - I was still formulating budgets.

20 Well you've described it as a, as a budget spreadsheet in your emails?---  
Yeah, yeah, I'm working on it, it's a work in progress at the moment, it's certainly not a, it's not a, it's not a finalised budget at all.

But all I know is given the documents you'd signed - - -?---Yeah.

- - - with the Art Gallery and a special confidential agreement, did it, did it occur to you that budget information which was in effect Art, Art Gallery property albeit you prepared it, did you consider whether you needed to advise anyone from the Art Gallery whether you should - whether you could disclose that?---No. These, these wholesalers were working with me and  
30 Tony Morris to, to test cameras, they were already privy to, too much of the information.

If you go to - sorry. Did you - I'll ask you that in a moment. If you just go to tab 16A page 273?---273, yes, got that.

And again this is an email you have written to a number of Q Video Systems people with further more detailed information about cameras and their specific location. Do you see that?---Ah - - -

40 It's (not transcribable) 275, 275 but at 27, 280?---Right.

THE COMMISSIONER: What's your question, Mr Strickland?

MR STRICKLAND: Look I just want you - I just wanted the witness just to look at it?---Yeah.

Now the question I wanted to ask is was there any other wholesaler that you provided this information to and by this information I mean the details in

275 to 280 a budget spreadsheet?---In relation to the Lenel, yes, certainly they would have been privy to, to the Lenel components, the layouts and the locations of the card read is probably not because that didn't matter as much as this did 'cause here we're saying it's a dome, it's an analogue, it's a, it's a - what type it is, whether it's external, what its objective is, what its frame rates are, what the resolution needs to be, what the storage capacity needs to be, so all of that's critical to, to forming a budget.

But - - -

10

THE COMMISSIONER: But I don't think you answered the question?---I - - -

MR STRICKLAND: The question is whether you gave the same information to the other prospective wholesalers?---On which products?

Well on any products that they might be offering?---These guys were the only ones that, that would have got it for Verint and they were privy to it, and rather than spreading it around to a million and one we're just trying to formulate a budget, so here they had it for Verint they are a Pelco dealer as well which is ideal so I could get off, off one company without having to spread it around to multiple companies. No, I would think not and, and I wouldn't want to.

20

No. But, so there was no other wholesaler in the position of Q Video Systems at this point in time was there, that (a) - - -

THE COMMISSIONER: As to knowledge.

MR STRICKLAND: Well, I was going to say as to (a) knowledge of the precise locations of cameras, the budget but also because they were the supplier for Verint products and that was the benchmark product? So you combine all of those matters, there was no other wholesaler in the position of Q Video Systems in terms of the likelihood of being awarded the contract?

30

---Oh, that's not true at all.

It's not true?---Because it, no, because it, because it ended up being a, a Pelco solution and there are three, three places you can buy Pelco. Not only that, that didn't guarantee them any sales of cameras, it didn't guarantee them any sales of network equipment, it didn't guarantee them any sales of brackets or housings so there was a whole bunch of stuff that's, that's, that they would have assisted in relation to preparing budgets on, absolutely no guarantees to them, no.

40

Well, but Q Video, they weren't the exclusive supplier of Verint products were they?---I think, well, you asked that question earlier - - -

Yes, I did?--- - - - and I think, I'm not sure but Verint may sell direct, I'm not sure.

But apart from, are there, are you saying there are no other wholesalers that supply Verint back, back in 2008?---There may have been but these guys would have been the largest one.

10 But in terms of the information that had been provided to Q Video Systems at this time, we're talking about now October/November 2008, there was no other wholesaler who was in the, who had the knowledge about the Art Gallery tender that this company did, do you agree with that?---Pelco were down on site at well.

I beg your pardon?---Pelco were down on site as well.

But, but I want to suggest to you that you, you have not emailed Pelco the information that you've emailed Q Video Systems?---They've been down on site and they were on site with me and Paul, Paul Thompson.

20 Just answer that question, that wasn't a question about being on site, it was a question about emailing information?---Emailing what information? For budgets?

Well, the information I've just been going through?---No, I, I told you earlier, it was only, it was only the one company that I dealt with in relation to the CCTV budgets.

30 Okay. Well, then the answer is yes, there is no other company at this stage you had been, who had received the information about budgets and products other than Q Video Systems, do you agree with that?---Well, I don't know. I don't, I don't, I don't have my emails in front of me and who else I've asked. I certainly asked Austar for pricing on various different aspects, they were the ones that supplied the, the people counting software in the end.

Are you saying that you supplied Austar with a, a budget and with information such as contained at pages 275 to 280?---In relation to CCTV?

40 In relation to - that's correct?---No, in relation to people counting we had them down on site and they would have been working there or they were working with me to, to develop budgets for that.

Go to tab 17, 14 November. So again this is suggesting an email to Q Video Systems relating to arrangements for their visit to the Art Gallery, is that correct?---In Melbourne, yes.

And again, they were going to meet with Tony Morris, is that right?---Yes. Tony's on copy.

Just go to tab 18, there's a further email to Tony Theissen, just tell me when you've finished reading that?---Right.

So this an email you sent to Tony Theissen, copied to a number of people and I'll come to that, where you refer to the Lenel system and then what I want to ask you about is "If it works we could consider it for the Art Gallery too", do you see that?---Yes.

10 And it says, "Call me to discuss. This is not a conversation that I want to broadcast to everyone but happy to discuss it with you, Paul and Charlie"?  
---Yes.

And what you wanted to discuss with, and the Paul there was Paul Thompson. Correct?---Correct.

20 And the discussion you wanted to, excuse me, the discussion you wanted to have with Paul Thompson and Charlie Diekman concerned the Lenel system as it would relate to the Art Gallery project. Correct?---Do you mind if I just read this from the back to the front? Because this is headed Defence.

Yes, I - - ?---So I just want to see what we're talking about.

30 I understand that, yes. Go ahead. It's the top of page 292, Commissioner?  
---This refers to a project of Defence in a suburb within Sydney, I won't mention the name of it where Kings were engaged by a builder to put a CCTV system in and it was the Verint system. And at that time that was the first time I'd come across the Verint system so that's where that discussion came up with, hey, if this thing works, I'd consider it for the Art Gallery too. I was looking at what, what parts of the puzzle could go together to, to create a solution for the Art Gallery.

Were you thinking at that stage that Charlie Diekman would be a suitable integrator – his company would be a suitable integrator for the Art Gallery?  
---No, I was looking at - because he had, his company had done the installation at Defence.

I understand?---So that was, that was the point of reference there.

40 Okay. And what was the reason that you didn't want to broadcast it to everyone?---Because it's a Defence project.

Okay. And did you visit Q Video - - -

THE COMMISSIONER: Sorry I'm not sure, this is about the Art Gallery. I know that everything before was the Defence project but this was the Art Gallery, that is the email at the top of page 292. Well I can see that, I can see that it could be regarded as being part of the Defence as well. Anyway that's your answer that you didn't want to discuss it with anyone because it

was a matter relating to the Defence project. Is that your answer?---Correct. Yes.

MR STRICKLAND: So is it the case that you went to Q Video Systems to discuss the Art Gallery project?---On several occasions, yes.

THE COMMISSIONER: What did you mean when you said you don't want the Art Gallery to be a guinea pig?---Yeah, we were talking about the way the, the Lenel was working and the way the Verint was working and that's exactly what I said, is I was at that time putting together – if this thing can work then yes, we'd consider it. I take it to Tony Morris, have a discussion with him about the proposed solution and, and open the discussion up a bit further. Obviously I was exploring options at this stage.

Yes?---And I didn't want, I don't want the Art Gallery to be a guinea pig because it's a primary project.

But is the option the Lenel system using the Verint encoders and associated equipment, is that, is that the new feature that you're looking at?---No. Back then it was, I was exploring what, what features, what, what could be done.

Well what was new? Because I mean I assume something is new because to be a guinea pig you're doing - you're dealing with something that's new?---It doesn't need to be a product that's new. If it's new to me I don't want it to be guinea pigged on, on my client so I want to check it out.

Well what was, what was new?---Well the, the combination.

Of Lenel and Verint?---No. Let me, let me read it again and I'll come back to you in a minute. I'm waiting on information, confirmation from Lenel regarding Lenel system's ability to be the front end, the CCTV system using, using the Verint system as the CCTV. So it was bringing Lenel over the top of, of Verint and so - - -

It is, it is as I said it's using the Lenel system's to be the front end - - -?---To be the front end, to be the user interface.

- - - using the Verint encoders and associated equipment?---Correct, yeah. And so because I hadn't that before I wanted to explore it further.

Yeah.

MR STRICKLAND: I just want to show you a, an email, sorry a - excuse me. Could the witness please be shown exhibit 17. Flanagan, Flanagan documents.

THE COMMISSIONER: It's not 17.



MR STRICKLAND: It's not 17?

THE COMMISSIONER: I'm not sure. It is.

MR STRICKLAND: Rare that I got - get it right but I think this time might have.

10 Can we just look at tab 2, please. Do you recall attending a meeting at the Art Gallery as outlined in this memorandum?---Vaguely, yes.

One of the items that is schedule for discussion is the tender evaluation protocols?---Right.

You remember any discussion about that?---Not at all.

20 Do you remember that at any stage that you were told by Ms Tregagle about the channels of communication and that all correspondence that you entered into as a security consultant with integrators had to go through her or through - do you remember that?---Vaguely.

You heard - I think - were you here for Ms Flanagan's evidence?---Yes, I was, yeah.

And you heard her evidence about that matter didn't you?---I - yes, yeah, I was sitting here, yes.

30 You don't deny - you deny her evidence about that?---I don't recall her evidence, sorry.

Well her evidence was that Ms Flanagan or Ms Tregagle's instructions were that any - that all communications with integrators have to be transparent and, and any communications you had with integrator had to be copied to, to her or someone from the Art Gallery?---Yeah, I don't, I don't recall that. I, I mean it may, it may have taken place, I'd need to see the documents to spring to mind but no, I don't recall it.

40 I'm not stating that there was a document I'm suggesting that that is something that was said to you?---I would think that that would be minuted then.

Well forget whether it should have been minuted I'm just asking you?---No, I don't recall it.

Okay. But you don't deny that that was said, is that right?---I don't, I don't recall it so I can't, I can't deny or confirm it, I don't know.

Okay. If you can go please to tab 3 of that exhibit 17. I'm sorry do you, do you have - I should just say go back to exhibit 2. Do you have page 302? Is that part of exhibit - tab 2?---Yes, I do, yeah.

MR LLOYD: F3.

MR STRICKLAND: That's F3 is it? Thank you. Okay. We're in a different place, thank you. And you recognise that as an, your invitation to Tony Morris?---Yes, I do.

10

And do you recall that Tony Morris attended at that conference?---Yes.

And if you go to F3, have you got page 304?---No.

If the witness could be shown Exhibit 2, Exhibit 2, tab 10. Do you remember, do you recognise that email sent to Charlie Diekman?---Yes.

20

And what you were suggesting to Mr Diekman was that he, well, you were asking him who, which one of those people on that list that Kings was going to sponsor, ie, pay for?---I was being a smartarse.

Well, can you just answer that question?---Yes.

Right. And so you contemplated, didn't you, that Charlie Diekman might pay for and arrange for Tony Morris to attend the ISC Conference?---No, not at all, likewise with myself, he never paid for me ever.

Well, that's what the email says, doesn't it?---Yes.

30

But you're saying that was a smartarse comment?---That's correct.

In other words you weren't being serious?---That's correct.

Mr Diekman's response to Mr Roche "need to discuss" and he's referring to the email below doesn't indicate or indicates that that was a matter that he took at face value?---Yes, it does.

40

And indeed, you've told this Commission that the sponsor letter than you send was a letter that you gave to Kings and that they changed the format slightly and sent the same type of letter out?---They asked me at one stage what, what letter I was sending out because I told them that, that I send letters out to my clients and they asked me what it was so I sent it over to them.

You see, apart from looking at security products in Las Vegas a significant purpose of going overseas to Las Vegas was to network with security industry people wasn't it?---Of course.

To socialise with them and get to know them?---That's networking.

Because networking improves the opportunities of getting work doesn't it?  
---No, networking gives you a greater understanding of their capability and their commitment to a project and a commitment to their, to their business.

But, Mr Paul, you have been a very successful businessman over 20 years haven't you?---I have, yes.

10 And one the reasons for that I suggest, apart from the hard work you have done, that you are very successful networker, do you agree with that?---I'm a networker. I don't know, I don't know how, how, how do you, how do you, how do you measure the success of networking.

Well you have practised over the years in associating, socialising with people who have an opportunity to provide you with work and also to maximise the opportunity of your business and other businesses that you associate with for contracts, to obtain contracts. Do you agree with that?---  
20 No. The way, the way I network or what I do when I network is I gain an understanding of my clients needs and I gain an understanding of what the suppliers can provide so that I can work out the best solutions for my clients.

I mean in relation to the 2009 conference in Las Vegas one of your purposes wasn't it was to introduce Tony Morris to the Kings people?---Not at all. Kings were already working at the Art Gallery.

30 But they hadn't yet been awarded the big contract had they?---Yes, they had. When they were in Vegas?

Not at the time you issued the invitations in January?---Probably not at the time that the invitations were issued, no.

When you say probably not, there's no doubt about it?---Well I don't know the dates off the top of my head, my apologies.

Well no, well I just show - - -?---I'm not a running calendar.

40 That's okay I'll show you the email again. That was an email in January 2008?---Right.

And the contract wasn't awarded until early March, I'm sorry 2009, I beg your pardon. And the contract wasn't awarded until early March 2009?  
---Right.

So that's what I'm asking you, at the time the invitation was issued to Tony Morris one of the ideas was to introduce him to Kings people?---Not at all. Kings were providing some level of service to Tony Morris and the Art

Gallery prior to, prior to tender. They were already doing small projects there or jobs or whatever, divorced of the tender process. And in any case Tony Morris knew of Kings I think through his days at, at Westfield I would have thought.

If you could just have a look at tab 5, Exhibit 17, please. Now that's the document you prepared isn't it?--- Yes, it is.

10 And was it your idea to recommend that the tender for the Art Gallery project should be a select tender?---I think it was a collective decision, is what Ms Flanagan said.

And what do you say?---I supported that certainly because of the confidentiality of the, of the Gallery's assets.

20 Okay. It was – however it was you – it was your recommendations about which companies to invite to participate in the tender. Is that correct?---I took the list off the back of the Lenel system, system integrators, they're what they call valuated resellers, the VAR's.

THE COMMISSIONER: What page is that letter please Mr Strickland?

MR STRICKLAND: It's page 455?---455.

THE COMMISSIONER: Thank you.

MR STRICKLAND: And the attachment to it beginning at, I beg your pardon, that's the first page of the document.

30 THE COMMISSIONER: And that's in Exhibit?

MR STRICKLAND: 17.

THE COMMISSIONER: 17.

40 MR STRICKLAND: So, excuse me, in this document if you just go to page 463. You've repeated the statement you've made on a number of occasions and for different clients, this is halfway down 463 that Security Consultant International would like to reiterate the disclosure statement provided as part of our engagement by the Art Gallery with respect to no links, ties, financial dealings or relationships with suppliers, integrators, et cetera? ---Yes.

Now do you agree that you never disclosed to the Art Gallery your gambling relationship with Mr Diekman?---No, but it had no relevance.

Well putting – the question is simply you didn't close it.

THE COMMISSIONER: Well he said no.

MR STRICKLAND: And it was a deliberate decision not to disclose it. Is that right?---No. It wasn't deliberate. It was – to me it bore no relevance.

Okay. And you didn't disclose to the Art Gallery that you had written to Kings inviting them to sponsor various people to the ISC including Mr Morris?---As a joke, no.

10 So do you think that statement at page 463 was an accurate one?---Yes.

And had you - did you have any links or ties or financial dealings or relationships with Q Video suppliers at the time?---Not that I recall. I know I did have - I had, had done some work for them but again it wasn't relevant to this because it wasn't - what, what that statement means is that I'm not obliged by them under payment to specify their product or anything like that.

20 It doesn't, doesn't say that at all?---Well that's what I - - -

It says you have no links, ties?---And I don't.

Financial dealings, relationships, that's what it says - - -?---Right.

- - - in words, they're the words that I'm reading?---Yeah.

30 And my question is was it true that you had no links or ties, financial dealings or relationships or a relationship with Q Video Systems?---By what do you mean relationship?

That's your word in your document?---Yeah. So then, then, then my meaning of that, no, that's correct, I did have no, no ties, no links, no financial relationships for what that means.

You said you had done work with Q Video Systems?---Yeah.

Yes. And what was that?---I, I done some presentations to them on, on tender assessing.

40 Right. And when had you done that?---I don't recall the dates.

And when you say you done some presentation on tender assessments? ---Yes.

What precisely were - was the form of the - what do you mean by you did presentations?---I sat with Paul Thompson the general manager and walked him through previous tender approaches that, that, that we use in tenderers, that I use in tender assessing so that he could understand the types of things

that go into a tender assessment so that he could help all of the prospective integrators that, that he sells to.

And had you done any of that, had you done any training of Q Video Systems employees?---What do you mean training?

Well you know what the word training means?---In what?

10 Anything?---No, it was, it was, it was the - well if you call that training, I don't know whether you call that training, that could be construed as training.

Have you ever, have you ever submitted an invoice to Q Video Systems for training their personnel?---Yes, yes, I have.

So do you know what the word training means?---Yes. That was, that was for that work, for that presentation and it was broken down into four different invoices because Paul didn't want to put it across as one invoice.

20 Paul who?---Paul Thompson.

Right. And when was that work done?---I don't recall the dates.

It was according to your invoice some of that work was done in the very month that you have - that is it was done in February 2009?---According to which invoice?

Well one of the invoices you prepared?---One of - which, which invoices?

30 Well you said you - it's been broken down into four different invoices?---Right.

Well let me ask you, when did you do this presentation and training work for which you have rendered invoices?---A considerable time earlier than the Art Gallery tender.

All right. Well when?---I, I don't recall the dates.

40 What was the value of the work you did?---I think - oh, I mean you'll, you'll have the invoices there, pull up the invoice, I don't recall the detail - - -

I'm asking you?---I don't recall the detail.

THE COMMISSIONER: What year did you do it?---It might have been 2008.

MR STRICKLAND: So - - -?---It might have been. I need to, I'd need to look at the, the document to find, find that out, I don't, I don't have a good memory with dates.

So in other words at the time you wrote this letter of 31 January, '09 did Q Video Systems owe you money for services that you had rendered?---I couldn't tell you, I don't know, I don't recall.

10 If they did then that is, then that would make your statement that you had no links, ties, financial dealings or relationship with Q Video a false statement, wouldn't it?---No. I explained what my statement means earlier and you don't accept that but, so we'll, we'll argue about that all day.

20 But, Mr Paul, it's a meaning, if it's, if it is the case that you had done work for a supplier, for example, and they owed you money at the time you wrote this letter that must be, that must fall within the terms of your letter as to whether you had a link, a tie, a financial dealing or a relationship otherwise the words are meaningless?---Not at all because it has no bearing on the outcome of the, of, of whether I specify a product or whether we nominate product and whether we use product so - - -

THE COMMISSIONER: Mr Strickland, I think we should just give up on this, what Mr Paul's view of the meaning of the words is not helpful.

MR STRICKLAND: Certainly.

30 If I, if I can take you to, if you can just go please to - sorry. You said in an earlier answer that you, that you based your, the list of the people who would be tendering for the Art Gallery on, I think you said on the Lenel - - - ?--- VAR's list, yeah.

And if you go to tab 6 please in Exhibit 17, is that the list, this is at page 476, is that the list you're referring to?---I couldn't tell you.

I beg your pardon?---I don't know. It was a list that Lenel sent to me so I, I don't know whether that's the list they sent to me.

40 If you go to, on tab 6, page 477 and 478 - sorry, I won't bother with that. Could you go to tab 6A, were you aware what the budget was, the Art Gallery budget was for the entire security upgrade tender?---No, only from the BRI report, whatever that said. To this day I don't know what it is but the BRI extract that I think you spoke to Ms Flanagan about, their summary, there was two pages submitted, they had a summary and in there it stated a, a budget. That was the only budget that the Art Gallery told me about.

So were you ever told that the budget was 1.8 million?---The budget was, not to my knowledge, I don't believe the budget was 1.8 million.

Thank you.

THE COMMISSIONER: Were you told that the budget was two million?  
---No, if you have a look at the BRI report, that was the budget that I  
thought it was and, and that's why when I went back I said I think we can  
get more for, more for our, more bang for our buck. If it's, I don't recall  
what the, the value was but XX dollars, we could get more for that, for that  
spend.

10 MR STRICKLAND: Could the witness please be shown Exhibit 1. Excuse  
me just for a moment, I may have that, have that wrong, just bear with me.  
I'm sorry, Exhibit 2, I beg your pardon. I'll just take you to tab 3 please?---  
Thanks. Did you want that one back? Cheers.

I just want to draw your attention just to one part of it. If you go to page  
481?---Yes.

20 You've written, "if you have any questions or require any clarifications  
regarding the invitation to tender please contact Mr Tony Morris on the  
email address shown above and copy me"?---Yes.

And I want to suggest that that was something that was discussed with the  
Art Gallery, in other words that was a sentence you wrote in effect on  
instructions?---It was the normal thing to do.

Whether it be a normal thing to do or not that was something you were  
instructed to do?---I don't recall being instructed to do that. You asked that  
earlier.

30 The purpose of that sentence was for Mr Morris to be a contact point  
between the tenderers and you so that there would be complete transparency  
in the process. Do you agree with that?---No. I was a technical advisor and  
Tony Morris was, was on the tender evaluation panel under, under Ms  
Tregeagle who was Chair and Tony was I think nominated to send out all  
the correspondence. I don't know.

40 Do you agree that Ms Tregeagle told you that there shouldn't be any  
response – you shouldn't respond to any inquiry from a tenderer unless the  
Tender Evaluation Committee had reviewed the responses and agreed that  
any response to them should be made to all of them equally?---I didn't  
respond to them I don't believe, so I don't recall.

That's not my question?---Sorry, can you repeat the question, sorry.

What I'm asking you is do you agree that Ms Tregeagle told you that there  
should be no response to any inquiry from any tenderer unless the Tender  
Evaluation Committee had reviewed the responses and agreed as a  
committee that any response to one integrator should be made to them all



equally?---I don't recall that, but I don't doubt that that may have taken place.

Okay. Thank you. If you go to tab, I'm sorry, I beg your pardon. Excuse me. Sorry, did you say you wanted a break?

THE COMMISSIONER: We'll adjourn for five minutes.

MR STRICKLAND: Yes, thank you.

10

**SHORT ADJOURNMENT**

**[3.23pm]**

MR STRICKLAND: I just want to show you a, a tender document?--- Thank you.

These are the - I want to suggest to you that these are the, the final or the revised, excuse me, tender specifications which you prepared?---Yes.

20

I tender that.

THE COMMISSIONER: Exhibit 66 is the final tender specification for the Art Gallery.

**#EXHIBIT 66 - TENDER FOR THE SUPPLY AND INSTALLATION OF AN INTEGRATED CCTV – NETWORK VIDEO RECORDING SYSTEM, SECURITY ALARM & ACCESS CONTROL SYSTEM UPGRADE DATED FEBRUARY 2009**

30

MR STRICKLAND: I just want to ask you questions from the time the tender opened which is 3 February 2009 until, excuse me, the times of the first interviews on 27 February '09, excuse me. Do you agree that during that period the integrator that you had by far the most contact with in relation to the Art Gallery tender was Kings Security?---I don't know. I don't have my phone records in front of me, no doubt you do but I, I - no, I don't know.

40

Okay. Well I'll show you this document. This is a summary - this has been prepared, this, this is a summary of calls made on the basis of various mobile phone - based on your phone records?---Sure.

I tender that document.

THE COMMISSIONER: Yes. A record of the frequency of calls made from Mr Paul's mobile number from 1 February to 6 March 2009 is exhibit 67.

**#EXHIBIT 67 - FREQUENCY OF EMAILS**

MR STRICKLAND: Thank you. Commissioner, the records that lay behind this summary are in this hearing room and I'm not going to tender them because they are voluminous but any - any interested party that wants to access them can do so in this room.

THE COMMISSIONER: Yes, thank you.

MR STRICKLAND: To verify that this information - so according to this summary between 1 February '09 and 6 March '09 there were 84 calls between yourself and Mr Diekman and I don't suggest, I don't suggest that on each and every occasion you actually spoke - - -?---Right. - - - but I do suggest that the records indicate that on the majority of those 84 occasions you did in fact speak to him. Does that sound right?---I wouldn't have a clue, no, I, I couldn't comment on that, I don't know.

I just want to ask you about particular days. I'll just show the - a summary of the combined calls that occurred the day following the opening of the tender which is 4 February 2009. Now on that day I think there was a total of some 12 or 13 telephone calls between yourself and Mr Diekman? ---Right.

Do you recall speaking to Mr Diekman on a number of occasions after the - the day after the tender opened?---I don't recall speaking to anybody after the tender opening, I don't recall anything back then but no doubt I had, had other projects on as well.

Well what other projects did you have on? Are you saying you had other projects with Mr Diekman?---I would imagine so, yeah.

And what were they?---I'd need to go back to my records.

Well, have you, have you gone back to your records before this hearing? ---Yes.

And what, and what, so what projects were ongoing as at early February 2009 with Kings apart from the Art Gallery?---There would have been Westfield ones, there would have been GPT and now - I say would have been because I don't have the records in front of me, right, but GPT, Westfields, Defence, there could a, a number of other projects.

It's the case isn't it though that you did speak to Mr Diekman and I'm, I'm talking about before the contract was awarded, I'm not talking about after, all these questions are before the contract was awarded. You did speak to Mr Diekman by phone about the Art Gallery tender, didn't you?---He would have asked questions about it and I would have told him no, no, no answers in, in relation to anything sensitive, that's for sure.

So you didn't, your, your evidence is you gave him no inside information about the tender?---Correct.

10

And I'm now asking you about before 27 February. So 27 February was the first meeting you had with Kings - - -?---Yes.

- - - after you've weeded out a number of contractors, or sorry, integrators - - -?---Yes.

- - - and you'd come down a final three?---Right.

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

20

So between the time the tender opens and that first meeting on 27 February did you have discussions with Mr Diekman about the, the actual security products that Kings would tender on?---No, I wouldn't have thought so, no.

Did you have discussions with him about the Endura product that Kings might tender on?---No.

30

You can say that with confidence?---I can say that with relative confidence, I don't recall any of the conversations so if it was to do with, if it was to do with the project, the Art Gallery tender I can say that with confidence that I didn't discuss the tender with the, or the content of the tender with him.

As I understand, just so I understand it clearly, you - and I'll just take, on 4 February, which is the day after the tender, you can't say whether you spoke to Mr Diekman about matters other than the Art Gallery on those occasions can you?---I would have.

You would have?---Yes.

40

And what project, what other projects would you have discussed apart from the Art Gallery on that day?---Well, whatever other projects he was working on and I just mentioned that to you, it could have been GPT, it could have been Westfield, it could have been Defence, it could have been a range of different other projects.

But you can't say though, that's - - -?---Well, I'd need to go back to my records. You're, you're, you're asking me a question, you're asking me to

answer it straightaway and I don't have those, that detail in front of me in fairness.

I understand. Are you able to do that, to look at your records and find out what other - - -?---What projects were on?

That's right?---Specific projects within that period?

Yes?---Yes, I can.

10

Okay. And would you do that?---Yeah, sure.

I'll just show you a - - -?---It might be worthy to note, Mr Strickland, if I can interrupt for a second, that I run potentially 30, 40, 50 projects a year so it's very, very difficult to know who I'm talking to about which project at what time three or four years after the event.

20

I refer to the call, the 84 calls - sorry, could I, I'll just add one more document, sorry. I'm going to tender one more, I'm going to show one more document and then tender them all as a bundle. I'll just show you this document which is a, it breaks down the calls between you and Mr Diekman on a daily basis and I tender the - I'll tender them separately, Commissioner. If I could tender the calls on, on 4 February and then the calls between - - -

THE COMMISSIONER: Well I think we should do them separately. We've already got 67 and then Exhibit 68 will be the calls on 4 February, 2009, that'll be Exhibit 68, a record of calls on 4 February, 2009, that's 68.

30

**#EXHIBIT 68 - SUMMARY OF COMBINED MOBILE PHONE CALLS BETWEEN DANIEL PAUL AND CHARLIE DIEKMAN ON 4 FEBRUARY 2009**

THE COMMISSIONER: And the calls between Mr Paul and Mr Diekman's mobile, the graph will be Exhibit 69.

40

**#EXHIBIT 69 - LOG OF CALLS BETWEEN DANIEL PAUL AND PETER DIEKMAN FROM 1 FEBRUARY 2009 – 6 MARCH 2009**

MR STRICKLAND: Thank you.

MR LLOYD: Commissioner, could I ask for a suppression order on the numbers.

THE COMMISSIONER: There will be a suppression on the mobile numbers.

### **SUPPRESSION ORDER ON THE MOBILE NUMBERS**

10 MR STRICKLAND: You also – if you just go – if the witness could be given Exhibit 67 again. You’ll see that the second most frequent number of calls was to Mr Grubisic from ACG?---Yes.

And did you speak to Mr Grubisic about the Art Gallery tender during that period on the phone?---I don’t recall.

Some of the – I want to suggest that some of the principals of the tenderers – who was the principal of SNP, which was one of the three finalists, if I might call it?---Tom Roche.

20 All right. Do you recall speaking to anyone from SNP during that tender period?---I don’t recall.

Is it the case that you have more dealings with Mr Diekman and Mr Grubisic about this contract you did – the Art Gallery contract than you did with other tenderers?---No, I wouldn’t say more dealings. I obviously spoke to Charlie more often than anybody else, he was a mate, and we, you know, bet and all that sort of stuff. So we were socially friendly. But apart from, apart from that, in relation to the actual project, no I wouldn’t say so. Are you betting during this period?---No, not that I recall.

30 Did you have any other dealings with ACG apart from the Art Gallery during this period?---Not that I recall but I’d need to go back to my records. I don’t, I don’t believe so.

So if that were the case and you didn’t have any other business dealings with ACG, that’s Mr Grubisic, that’s Mr Grubisic’s company?---Yes.

40 Then it’s certain isn’t it that a deal if not all of those 44 calls with Mr Grubisic involved some discussion of the Art Gallery contract?---In the content of such discussions would be him trying to get information out of me and me, me rejecting that, that request for information.

Excuse me. I’ll show you another, I’ll just show you a - I just, I - I’m going to ask some questions about these later, Commissioner, but I - they’re not - Mr, sorry Mr Paul is not privy to these but I’ll just ask him to look at them and I’ll - but I, I tender that chain of emails ending from Paul Thompson on 6 February.

THE COMMISSIONER: The chain of emails from - ending with the email from Mr Thompson to Mr Yallouris and Mr Clarke on 6 February 2009 will be exhibit 70.

**#EXHIBIT 70 - CHAIN OF EMAILS ENDING WITH THE EMAIL FROM MR THOMPSON TO MR YALLOURIS AND MR CLARK SENT ON 6 FEBRUARY 2009**

10

MR STRICKLAND: Sorry, there is one document. Can you just go please, to page, thank you, to page 495 through to - thank you. Do you have 495 to 510?---510, yes.

And is that - that's a document you prepared is it?---Yes. I think you'll find that Metadata shows the last author was Tony Theissen so we were bouncing it backwards and forwards between us. That's version 8.

20 Now is there any other wholesaler that you provided this information to as at 6 February '09?---The entire spreadsheet?

Yes?---Not that I'm aware of.

So at that stage was it clear that Q Video suppliers was going to be the wholesale supplier for the security products?---Not at all. It's a competitive tender they were able to, to seek prices from anybody.

30 I'll show you another group of emails, please. I tender this chain of emails ending with an email from Daniel Paul to Tony Theissen on 7 February 2009.

THE COMMISSIONER: Yeah. The string of emails ending with the email from Mr Paul to Mr Theissen on 7 February 2009 will be exhibit 71.

**#EXHIBIT 71 - EMAIL FROM MR PAUL TO MR THEISSEN RE MEGAPIXEL SENT AT 9:42AM ON 7 FEBRUARY 2009**

40 MR STRICKLAND: In the email that you wrote to Mr Theissen at the bottom at page 513 you indicated that you were going to sit down before the tender closes to discuss the ideas in relation to the security products. Is that correct?---In relation to he's dealing - what products he's dealing with, yes. I've asked him to put forward an alternative bid if the Verint - if the Lenel couldn't do it and Verint could.

At this stage, 7 February, '09, I, I assume you then, you did do what you said you were going to do and sat down with Mr Tyson to discuss those matters?---No, not that I recall.

Any reason you didn't?---I don't recall, I don't recall having the meeting with him, no.

10 You're not saying you didn't have the meeting, you're just saying you can't recall it, is that right?---I doubt I had a meeting with him but I, I don't recall having a meeting or not having a meeting, I don't recall the, the occasion.

Given that you've said you were going to have a meeting why do you doubt you had it?---Because it, it, it would stand out in my mind that I had a meeting with him in regards to this if, if that's the case but I don't, I don't recall the meeting.

And why would that stand out as distinct from any other matters?---Because of the context in which it was, it was written.

20 And what was the context?---That there was an alternative being put forward by them or I was asking them if they, if they were going to put forward an alternative.

So you, being someone who - one of your jobs was to be completely up to date or as far as possible on the latest technology, correct?---Yes.

So if there was a better alternative out there that's something that you'd be right onto wouldn't it?---I'd want to know about it.

30 Could the witness have Exhibit, just excuse me for one moment, yes, Exhibit 2, R11 and 12. Now, these are the two cheques, 3532 and 3533, the two cheques for \$10,000 that, paid to cash that you put into your account? ---To what, to what account?

I'm sorry, these are the two \$10,000 cheques that were for Mr, you say for Mr Maurice Ciot's travel expenses?---Right. So they weren't put to any account, they were paid, paid to Amex.

40 Paid to Amex. But, but they were, it was \$20,00 that was given to you you say for a specified purpose, correct?---Yes.

Right. Now, that's not something ever disclosed to the Art Gallery is it? ---Maurice's birthday party, no.

No, no, I'm not talking about Maurice's birthday party?---Well, that's what it was for.

Did you ever say to the Art Gallery look, I just need to tell you something, one of the tenderers, Kings, has given me \$20,000. Now, I can explain that, it's for a particular purpose but I feel I should disclose that to you. Did you ever do that?---It had no bearing, no.

I'm not asking whether it had a bearing, I'm just asking whether you disclosed it?---No, because I didn't think it had any bearing whatsoever.

10 So I want to suggest to you that your, the evidence you gave about the meaning you attributed to your non-disclosure statement which I've taken you to before about no links, financial, I want to suggest that your evidence as to what you believed that meant is not true. Do you agree with that or not?---Not at all.

And I want to suggest that your, the evidence that you believe that the reason you didn't disclose to the Art Gallery being paid \$20,000 by Kings was not relevant, that that evidence is not true either?---Well, you're wrong.

20 You see, surely - I'll just suggest this to you. The appearance, if, if an outsider looking in had seen one of the integrators who were bidding for this contract and you knew that as at this, as at the time of these cheques the tender had already begun?---Yes.

And if, if an outsider not knowing about Morris Ciot saw an integrator giving you \$20,000 that would have on its face a sinister appearance wouldn't it?

THE COMMISSIONER: Cash.

30 MR STRICKLAND: Cash?---Sure. So, so would any - - -

Just, just, no, just bear with me?---That's absurd.

40 Okay. I, I accept you say my questions are absurd but I'm going to continue with it. So given that - that the provision of \$20,000 cash by one of the integrators would on its face have a sinister appearance it would be an obvious thing for you to do to go to the Art Gallery and say look I have been given \$20,000 cash by one of the integrators but I can explain the purpose of it, it was for - so I can give someone else a birthday present and that's the reason for it. That would be the transparent thing to do wouldn't it?---If that, if, if, if I had have thought it was anything sinister about it. I looked at it from its face value of what it actually was (not transcribable) for Morris's birthday and went there's nothing in this why would you bother declaring that, right. If I went down the road and bought a hamburger for somebody and somebody else said oh, you shouldn't be doing that because there's a tender out should you declare that. I mean for you guys to take every piece of information and lay it up the way you want to lay it up in this, in this hearing is, is one option but if you bring all of the evidence into account and



look at it from two perspectives i.e. it's not a sinister thing and your perspective of there's something that Daniel's done wrong here, there's two sides to every story and if you looked at it from my perspective the truth you'd see that there's nothing wrong with it.

Mr Paul, I'm asking you to look at it not from the perspective of this Commission for the moment or from your perspective but from the perspective of a witness from the Art Gallery who came and gave evidence in this Commission and on this matter her evidence was totally  
10 unchallenged and that was this, if she had known about the \$20,000 paid to you would have caused her grave concern?---Because she didn't know the facts.

What - I haven't asked the question. What do you say about?--- I said she doesn't - she didn't know the facts. If she knew the facts she wouldn't think and she knows me and, and the Art Gallery people know me, they know that's not the case, not the case at all.

The appearance of impropriety, the appearance of it would dictate that you  
20 would disclose a payment of \$20,000 cash by integrator to the Art Gallery wouldn't it?---I don't know because I don't know what the rules are in relation to what an appearance is to meant to be, no-one's ever told me that. Until this enquiry I'd never even given two thoughts to what the appearance should be.

Common sense would dictate - - -?---No.

- - - that that is what you ought to have done - - -

30 THE COMMISSIONER: Well you must have given some thought to, to appearances in regard to cash payments because some of them were concealed?---Your word's concealed, I didn't conceal them.

Well I thought you'd agreed that at least one lot was concealed?---No.

MR STRICKLAND: I beg your pardon?---I said, no.

You didn't agree to it?---I don't agree to it, no. I haven't concealed  
40 anything.

Okay. The Commissioner's question was you had - you've had agreed in your evidence that one of the payments, that's the \$13,000 to your mother-in-law that that was probably concealed?---No, well I - - -

Are you saying that's not your evidence?---I don't, I don't agree that it was concealed.

That was your - no. The question was that was your evidence?---After, after being questioned 38 times from different angles on it but it's not the case, I haven't concealed anything, I've done nothing wrong.

I want to show you another document. Now this is a, an entry discovered in Mr Peter Roche's computer calendar for a meeting at the Kings meeting room on 13 February - for 13 February 2009 and the title of the, of the calendar meeting was Art Gallery review meeting. Do you see that?  
---Yeah, I can see that.

10

And you're listed as one of the required attendees?---Yes.

And that's on page 527. And then on page 526 the calendar has indicated that you have accepted an invitation to that meeting?---Right.

I tender those two documents. The documents to be called calendar - - -

THE COMMISSIONER: Well extracts from - - -

20

MR STRICKLAND: Calendar, yes.

THE COMMISSIONER: - - - from an electronic calendar, well they're not both, well they are two documents relating to an invitation to Mr Paul to attend an Art Gallery review meeting on 13 February, 2009 is Exhibit 72.

**#EXHIBIT 72 - TWO DOCUMENTS RELATING TO AN  
INVITATION TO MR PAUL TO ATTEND AN ART GALLERY  
REVIEW MEETING ON 13 FEBRUARY 2009**

30

MR STRICKLAND: So Mr Paul, do you recall attending a meeting at Kings during the tender process in relation to the Art Gallery project?---No, I don't.

The computer records show that you accepted an invitation to attend a meeting for Art Gallery review, do you recall - having looked at that do you recall receiving an invitation to attend?---No, I don't recall that email, but I mean I don't doubt that it took place, as in the email took place, but I don't recall ever attending any meeting.

40

Okay. I'm just going to show you some phone records on that date, on 13 February, 2009. On the - the phone records reveal that on 13 February, 2009 at 7.35am you called Mr Diekman, the duration of that call being 18 seconds. I'm sorry, I should have put beforehand, before then there was a call from Mr Diekman to you at 7.33 and then there was a call back from you to him at 7.35am. Do you see that?---Yeah, yep.

According to Exhibit 72 the meeting was scheduled on 13 February at 8.00am and Kings offices were in Zetland. Is that correct?---Correct. And you're, at the time you were living at Frenchs Forest?---Correct.

Which is fairly near Lindfield?---Yes.

Or East, and then the next call or the next relevant call on 13 February is you called Mr Yallouris at 10.35am and the cell site says Mascot?---Right.

10 And that's fairly near Zetland, isn't it?---Sure it is, yes.

All right. And - - -?---But then the next one further down shows there's one at Duntroon at 12.53.

Exactly, and that's in Canberra, isn't it?---Yes.

And so you flew to Canberra that day didn't you?---So I could well have been at Mascot Airport at the time, yes.

20 At what time?---Oh, well, at 10.30 time.

Indeed?---Yeah.

So in other words you got a phone call from Mr Diekman at 7.33 in the morning, you called him back at 7.35, according to the calendar you had accepted a meeting that took place, that was scheduled to take place between 8.00 and 9.30 at Zetland which is near Mascot and then at 10.35 you made a call to Mr Yallouris from the Mascot region and then later that day you flew to Canberra because you made a call at, you made, made a call  
30 in the Duntroon area 12.53?---Sure, but I didn't attend any meeting.

I beg your pardon?---I didn't attend a meeting at their premises.

Why do you say that?---It does show that does it, it just shows that I've made phone calls from the Mascot area in which case I was flying to, to Canberra.

I'm not saying that the phone calls do show you attended a meeting, what I'm suggesting is that they showed you received a call at your, near your  
40 home, you then made a call near the Mascot area which is near Zetland you were scheduled to attend a meeting and you accepted attending a meeting on that very day?---I was also scheduled to fly out so - - -

But the meeting's between 8.00 and 9.30, there were no calls between that time?---So what?

All right. Well, it's consistent with you receiving a call from Mr Diekman, attending the meeting at Zetland then going to the airport and making a call

at 10.35?---Again, you paint it that way. Here there's a conversation that's taken place between and Mr Diekman. I've driven down to, down to Mascot, got in an aeroplane, flown to Melbourne.

No, Mr Paul - - -?---Sorry, to, sorry, Canberra not, not Melbourne.

I'm not painting it any way but the records - - -?---Well, you are.

10 No, the records which I've tendered show that you accepted the attendance of a meeting for which you were the security consultant at Kings on 13 February, that's, that's what the records show?---But the records don't show me attending the meeting, do they?

But you don't recall whether you did or didn't you say?---Well, I can tell you now I didn't, I didn't attend any meeting.

You didn't?---Where's the records of me attending a meeting?

20 THE COMMISSIONER: Well, do you now deny that you attended that meeting?---I denied it earlier.

No, you didn't?---I did, I said I don't recall ever attending a meeting there.

Well, that's not denying a meeting it's saying you don't remember whether you attended it or not. Now, now do you say you remember and you didn't attend the meeting? Is that what you're saying?---I'm saying I don't, I didn't attend any meeting there.

30 MR STRICKLAND: If that's the case why did you accept the invitation to attend?---I have no idea but I've got to tell you in my diary right now there's a whole bunch of attended, sorry, accepted meetings throughout this period of this hearing, right, for clients, that I can't attend so in six year's time or two years' time you pull those records up, you're going to say you, you accepted that, well, circumstances change don't they?

So you, you're - - -?---It doesn't mean I attend every meeting that I accept.

40 So you now can say that you have a specific recollection of not attending such a meeting, is that right?---I can tell you that I didn't attend that meeting.

And why can, why can you be so certain about that?---Because I didn't attend any meeting during the tender period.

Because if you had attended such a meeting with Kings about the Art Gallery tender that would be quite improper, wouldn't it?---It would be construed as improper. It depends on what the content of the meeting was.

Once again, it might have been something completely, completely innocent, right. It doesn't have to be sinister.

THE COMMISSIONER: What do you think that Kings wanted you to meet with them about on that day?---I have no idea. Ask Peter Roche.

But that was in the middle of the - - -?---It was Peter Roche that sent the invitation.

10 That was in the middle of the tender period?---Yes.

Well, how dare you then accept the invitation?---Why?

MR STRICKLAND: Because it indicates you were willing to attend it, doesn't it, by accepting it it indicates - - -?---It depends on the content of the meeting.

20 By indicating you accepted indicated at the time you pressed the acceptance button or accepted that you indicated a willingness to attend, that's, that's true, isn't it?---Well, no, not necessarily.

So do you deny that by accepting it you're denying that accepting it indicates a willingness to attend?---I've accepted, I've accepted meetings and not attended before. Haven't you?

You don't ask questions Mr Paul?---Sorry?

You do not get to ask questions, you answer them?---It's not very fair is it?

30 THE COMMISSIONER: No, you might think so but that's how the system works?---Well unfairly.

MR STRICKLAND: I tender the phone records of 13 February.

THE COMMISSIONER: Yes. The phone records of 13 February involving Mr Paul, Mr Diekman and others is Exhibit 73.

40 **#EXHIBIT 73 - LOG OF CALLS FROM DANIEL PAUL AND PETER DIEKMAN TO OTHERS ON 13 FEBRUARY 2009**

MR STRICKLAND: Did you ever disclose to - - -

THE COMMISSIONER: Yes, sorry - - -

MR STRICKLAND: Sorry.

THE COMMISSIONER: I beg your pardon. Phone records of Mr Diekman, of Mr Paul, Mr Diekman and others on 13 February, 2009 is Exhibit 73. There's a suppression order, I don't think – no suppression order is needed is there Mr Lloyd?

MR LLOYD: Commissioner, to tell you the truth I seem to remember Mr Paul said earlier on that his number was - - -?---Oh, the mobile number it doesn't matter.

10 THE COMMISSIONER: Yes.

MR LLOYD: The mobile doesn't - - -

THE COMMISSIONER: Yes.

MR STRICKLAND: You never disclosed to anyone from the Art Gallery that you had accepted attending a meeting at Kings during the tender process did you?---I didn't attend the meeting, no.

20 That's not my question?---No, to answer your question, no.

Thank you. Now you had a number, excuse me, you had some discussions with Mr Thompson during the tender process didn't you, by which I mean between the time the tender opens and the time the contract is awarded? ---Yes.

And I want to suggest that on one of those occasions you told Mr Thompson that you hoped that either Kings or Tony Grubisic, ACG got the contract but you were leaning towards Kings?---I don't recall ever saying that.

30

I'll show you an email chain. I want to take to you one particular email at the beginning of page 538 from Mr Thompson to Mr Yallouris, subject Art Gallery and Mr Thompson writes, "spent a couple of hours with Dan today. He likes the idea of option 2 very much. He will accept a proposal where we put a fixed camera in case of Air Con 360 and swap them over when the system can take them. He's still hoping that Kings or Tony get but seems to be leaning towards Kings". Does that jog your memory that that's something you told Mr Thompson?---No, not at all.

40 Told him on 16 February, 2009?---No.

Do you have any explanation as to the source of that information in that sentence?---Well I don't know when, when he's referring to. He's saying today, I don't recall ever having that conversation with him at all.

Do you, do you deny spending a couple of hours with Mr Thompson on Monday, 16 February?---I couldn't tell you whether I spent two hours or half an hour or any time with him on 16 February in 2009.

Well he has written on the very day that he spent two hours with you?  
---Right.

Well, sorry, spent a couple of hours with you?---Right.

I tender that email chain.

10 THE COMMISSIONER: The chain of emails with the email from Mr  
Thompson to Mr Theissen of 18 February 2009 being the last email as  
exhibit 74.

**#EXHIBIT 74 - EMAIL FROM MR THOMPSON TO MR THEISSEN  
SENT ON 18 FEBRUARY 2009**

Mr Strickland, is this a convenient time now?

20 MR STRICKLAND: There's just one, there's one brief area I wish to cover  
if - - -

THE COMMISSIONER: Yes.

- - - that, if that's convenient?

THE COMMISSIONER: Yes, it is.

30 MR STRICKLAND: The records indicate that there was a - the tenders  
closed on 23 February 2009. Do, do you accept that?---Right, yes, I do.

And that as a result that after the tenders closed you had a meeting at the Art  
Gallery and with the Tender Evaluation Committee, Mr Morris, Mr - Ms  
Tregeagle and Ms Flanagan. Do you accept that?---Right.

Do you accept it?---Yes.

40 And that you then went through a rating system with each of the tenderers?--  
--I don't know what on - on what date that was but, yes.

I want you to assume it's the 23 February 2009. Will you assume that?  
---Yes.

And that as a result of that rating that there were three tenderers that were  
then selected for interview?---A shortlist in tenderers.

A short list of tenderers?---Yes.

And that, and that took place on 27 February?---Right.

Do you accept that as a date?---Yeah, I accept that.

The records show that. Now and you accept that you participated at - you attended the interview when a Kings employees attended on 27 February, is that correct?---Yes.

10 What is your recollection of what happened at that meeting?---Sorry, in what, in what way? The entire meeting? What, what are you - - -

Yes. What's your recollection?---Can you be more specific?

No, I don't wish to be more specific. What is your recollection of what happened and what was said at that meeting?---On the - - -

UNIDENTIFIED MALE SPEAKER: (not transcribable)

20 MR STRICKLAND: I'd ask the question - it might be here for half an hour.

THE COMMISSIONER: Well see how it goes.

MR STRICKLAND: I just want have - an answer to that question?---At on?

Yes?---The entire meeting?

Yes. What's your recollection?---For each of the, for each of the tenderers coming in?

30 No. Kings. What happened at the - what is your recollection of what happened when - at the Kings - when Kings attended the meeting for the first interview on 27 February?---Right. They, they - my recollection's not that great but they would have come in.

40 THE COMMISSIONER: No, not (not transcribable) they would have. What is your recollection? What do you remember?---They walked into the meeting room, they were asked a range of questions by the tender panel being myself, Tony Morris, Anne Tregeagle and Ann Flanagan. Anne Tregeagle was taking minutes and notes, I think all of us were actually taking notes that we would have handed or that I believe we handed to Anne Tregeagle at the end of it. At some point, if this is the same meeting, I think it is, the first meeting, at some point they through a presentation of some sort of envelope on the, on the table and they were discussing a cheaper price of \$2 million.

Kings?---Kings were, Charlie was, Charlie and Peter, predominately Charlie's talking. At that point Anne Tregeagle stopped the meeting, said we can't accept new pricing. They were talking about other issues i.e. the,



the latest release of the Endura 2 software and how it was now available which that's what they, they presented in their tender but, but now they were saying it's, it's, it's actually now available, that they'd done some sort of deal with the manufacturer not the wholesaler where the manufacturer had done some magic with them to reduce the price.

MR STRICKLAND: That's Pelco is it?---Pelco, yes.

10 Go on?---And throw in a whole bunch of added features and benefits. And that would have been, that was what Tony and I got excited about was the release, release of the Endura 2 and all the additional features and benefits. They threw in from memory biometric readers, a whole new keying system, a whole bunch of bits and pieces which will be in the records and you've no doubt got them in, in some emails there. Anne stopped the meeting, told them that we couldn't accept that, that new document or that new envelope and gave it back to them. So we never did get to see the content of that. They continued with their presentation and when they left we had a fairly lengthy meeting where Anne Tregeagle – everyone was excited about it in particular - - -

20

About what sorry?---About the, about the new release software as well as the price. Anne Tregeagle, being the Chair said she'll think of a way to, to, to make them both, what was the wording, if they were joint preferred tenderers she could call them back for pricing. She could accept the pricing. And so she scored the sheets and she gave them to me to write up. I don't recall a great deal of detail about how the meeting closed. There are some emails after that.

30 So, but you knew before that meeting that Kings had put in as an alternative bid the Endura 2 solution. Is that correct?---No, it wasn't an alternative bid, it was always Endura 2.

Okay. That was your understanding?---Yes.

But you say at the meeting what got you excited was that they had presented it as something that had been released, Endura 2?---Yeah, Endura 2 was now being released, yes.

40 All right. And you, and you were unaware - - -?---Had been released, yes.

Had been released. And you were unaware of that prior to that meeting? ---No. We knew, we knew that it was imminent. And - - -

Who's we?---The tender evaluation panel, Tony, Tony Morris and myself had already spoken to Pelco on several occasions. I'd spoken to Pelco with Tony and said, look you know, we'll virtually give you til the eleventh hour and if you can, if you can prove to us that it works, that it is actually

operational and that it's released we will look at it. And as a result of that meeting Tony and I visited Pelco to, to actually go and review that product.

So what was new – the new information on the 27 February meeting was (1) the fact that Charlie Diekman had told you that the Endura 2 solution had actually been released on to the market by Pelco. Is that correct?---Software was available, yes.

10 And you hadn't known that up until then. Is that right?---Well no, they, they put it in their proposal but as far as I was concerned we hadn't seen it.

THE COMMISSIONER: Did you know that it had been released or not?  
---No. But apart from their proposal, their proposal said it was version 2.

Yes, but it hadn't been released, so I understand?---Well I hadn't seen it. I hadn't seen it operational.

20 So I think that you have agreed that at that meeting, before that meeting you did not know that it had been released and what excited you was the news from Diekman that it had been released. Is that right?---That it was available, yes.

Yes.

MR STRICKLAND: Thank you. Is that a convenient time?

THE COMMISSIONER: Yes. Just a couple of matters of housekeeping. Mr Strickland, something you wanted - - -

30 MR STRICKLAND: Oh look I'm sorry, I have been reminded, I meant to do it, could I just tender this - - -

THE COMMISSIONER: Yes.

40 MR STRICKLAND: I just want to show you this one document. I asked you about it before lunch. I just want to show you this document which is a statement of account. And if you go to – this is a statement of an account of Ms Lisa Paul on 18 February, 2011 you can see that there's a, an entry there in relation to the credit for the jet ski payment from (not transcribable) Pty Limited?---That's only, yeah, that's only part of it. But that's, that's fine.

I tender that and I'd ask that there be a non-disclosure in relation to the account number and address.

THE COMMISSIONER: Yes. Mrs Paul's statement of account, being stated 112 from St George Bank is Exhibit 75 with the account number and the address being suppressed.

**#EXHIBIT 75 STATEMENT OF ACCOUNT OF MRS L PAUL FOR PERIOD 21/1/2011-21/03/2011**

**THERE WILL BE A SUPPRESSION ORDER OF THE ACCOUNT NUMBER AND ADDRESS ON EXHIBIT 75**

MR STRICKLAND: I'm sorry, I beg your pardon, what exhibit number was that I'm sorry? 75, thank you.

10 THE COMMISSIONER: 75.

MR STRICKLAND: Thank you.

THE COMMISSIONER: That's all, Mr Strickland?

MR STRICKLAND: Thank you, that was all.

THE COMMISSIONER: Just a couple of matters. The first is that the transcript from 4 o'clock onwards will only be available tomorrow morning.  
20 The second is that I've been informed by Counsel Assisting that we're on schedule to finish and that it's not necessary to sit late so we will not be sitting late, unlike what I said earlier so we'll start at 10 o'clock tomorrow and we will run until 4 o'clock tomorrow and we will continue doing that at least, well, tomorrow's the last day for this week because we're not sitting on Friday and we'll start again at 10 o'clock on Monday with the plan to finish at 4 o'clock on Monday and sometime in the afternoon of Monday I'll let you know if we're going to sit late again but at the present moment we're not intending to sit late and, Mr Lloyd, I think it would be in everybody's interests if, if you are available and Mr Paul is available for you to discuss  
30 this evening whatever you want to discuss for the purposes of re-examination in relation to the documents that you haven't seen and of course I rely on you not to discuss other matters.

MR LLOYD: Indeed. But it's 1 August, Commissioner, and for me it's the end of dry July so that may be over a beer.

THE COMMISSIONER: I will not interfere in that, Mr - - -

MR LLOYD: Thank you, Commissioner. I will - - -  
40

THE COMMISSIONER: I'm really trying to just save time.

MR LLOYD: I understand, Commissioner.

THE COMMISSIONER: Yes, very well.

**AT 4.38 PM THE MATTER WAS ADJOURNED ACCORDINGLY  
[4.38PM]**