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06/08/2012

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pp 01260-01300

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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 MONDAY 6 AUGUST, 2012

AT 2.11PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: Ms Lonergan.

MS LONERGAN: Mr Morris, before the luncheon adjournment I was asking you some questions about an invitation you received to a shootout in July 2008?---Yes.

10 And you said that Mr, Mr Paul had invited you to attend that shootout?
---Yes, he did.

Did he explain to you the purpose of your attendance?---Mainly to have me view how he conducted shootouts for cameras and perhaps give me a bit of insight as to how things would proceed with my own tender.

Did he tell you who else he'd invited to these shootouts?---No, not that I recall.

20 Did he, did he tell you that the people he had invited included companies and personnel that he was considering for the Art Gallery upgrade tender?
---Not that I recall.

Could the witness be shown Exhibit 65, 103 and if you could turn to the third document in that group with the tab on the side, Mr Morris, it's got 103 at the top and you see that's an email from Daniel Paul to a number of people?---Yes.

30 You see that. Do you remember meeting a large group of people at this particular shootout?---I wouldn't say I met with anyone, I was, I was an observer.

All right. And do you remember how many people were at the shootout in terms of other technical staff or representatives of companies?---I have no idea.

THE COMMISSIONER: Well, were there more than five?---I would, that'd be a, yes, there would be more than five but as I say, I can't be certain.

40 No, no, I understand that but I'm just trying to get a feel for approximately how many there would be. More than 10?---There may have been.

May have been.

MS LONERGAN: Do you recall Mr Paul introducing you to anyone in particular at that shootout?---Not that I recall.

Did you tell Mr Paul details of works that were coming up at the Art Gallery prior to him putting in his Expression of Interest document and just to base it in time his Expression of Interest letter was dated 12 July, 2008?---Yeah. It would only have been that we were going to enter into a, a tender process for some security equipment, I made no, I can't recall making any more statement other than that.

10 Did you invite him to put in an invitation – I'm sorry, I'll withdraw that. Did you invite him to put in an Expression of Interest?---Yes, we did.

And did you invite other consultants to put in an Expression of Interest as well?---Yes, we did.

And who were the others?---It was a gentleman by the name of Wayne Henschke, his company name I can't recall. And the other company was BRI, which are Business Risk International.

20 Business Risk International had already prepared some sort of assessment of security at the Art Gallery prior to this time. Is that correct?---They conducted a risk assessment following the theft of art, yes.

Yes. And Mr Henschke, had he conducted any reviews of the Art Gallery or prepared any risk assessment documents prior to you inviting him to tender?---No.

And Mr Paul, had he done any review of the Art Gallery prior to you inviting him to put in an Expression of Interest?---Not that I recall.

30 Are you able to say on what documents Mr Paul and Mr Henschke were able to outline their Expression of Interest at that point? Did you give them any documents yourself?---No, not that I recall.

Could the witness be shown Exhibit 65, tab 4, please. And you see that's a document from Mr Paul dated 12 July, 2008. Do you see that?---Yes.

And it's directed to you. Do you see that?---Yes.

40 If you can turn to page 115 of the document, you see that Mr Paul's provided a summary of pricing for the works that he's proposing to provide to the Art Gallery?---Yes.

Are you able to assist the Commission with what material Mr Paul was given to enable him to prepare this document and that summary of pricing? ---Well I know he was given a copy of the BRI risk assessment, but I'm not too sure whether that was before or after he was awarded the consultancy.

If it wasn't the BRI risk assessment document, what other document to your knowledge would have provided him with the sort of information he would require to complete Exhibit 65, tab 4?---I have no idea.

THE COMMISSIONER: He seems to – well do you know what items 1 to 9 are?---No, I don't.

10 MS LONERGAN: If you can turn back to page 108 of the document, no I'm sorry, yes go to page 108 and then leap forward through the document, it does appear that documents arranged under numbered headings 1 through to 9 and then on the bottom of page 113 there's a heading Fees. So you turn over to page 114 and there seems to be a list of items 1 to 9 and then a summary of pricing on page 115 listing items 1 to 9?---I see, yeah.

And looking at that document and that arrangement of the document does that assist you as to any material or documents you provided to Mr Paul so that he could complete this Expression of Interest?---Well at item 2 it would appear that that is making a reference to the BRI report.

20 All right. And were you the only – by this stage, 4 July, 2008 were you to your knowledge the only person from the Art Gallery staff who had contact with Mr Paul about the security upgrade?---That would be correct.

If you could turn to tab 5 of that bundle of documents you have there, Exhibit 65. And you see that's a document headed, Tender For The Security Systems Upgrade Consultancy and it's dated 1 August, 2008. Do you see that?---Yes.

30 Now did you prepare that document?---No.

Do you know who did?---Well I can only assume Anne Tregeagle.

And did you, did you to your recollection have any role in distributing this document to the consultants who were tendering for the security consultancy?---I can't recall I may have.

40 Could the witness be shown Exhibit 66, please. And just keep Exhibit 65, that folder with you if you don't mind. Now you see that's a, a tender from SCI that's Mr Paul's company. You recognise that?---Yes.

And did you have a role in reviewing Mr Paul's tender submission - - -?--- Yes, I did.

- - - consultancy? And did you read this document?---I believe I did.

Right. Were there any arrangement for you to be taken through this document with Mr Paul?---Not that I recall.

And in relation to the way the consultant was chosen for the Art Gallery upgrade did you meet with the other tender panellists?---Yes, we did.

And did you during that meeting go through in any systematic way the various submissions, tender submissions from the consultants who tendered?---We may have but I have - I can't recall.

Are you able to say now whether you personally checked the referees in Mr Paul's document, that's Exhibit 66?---No, I didn't.

10

Are you able to say whether anybody else on the tender panel checked Mr Paul's references?---I'm not sure.

And - - -

THE COMMISSIONER: Is that something that's not normally done?---I would imagine it would have been, it would have been normally done, yes, but I, I don't recall doing it.

20

Well whose task was it to do it?---I would imagine it would have been a task delegated by the project manager.

And who's the project manager?---Anne Tregeagle.

It wasn't delegated to you?---Not that I recall, no.

MS LONERGAN: Sorry, Mr Morris, I've shown you the wrong document. If you could turn up Exhibit 65 tab 7 and that's the proposal by Security Consultants International dated August 2008?---Ah hmm.

30

Do you see that document?---Yes.

And if you could turn to page 179. See that number's in the top right corner. Page 179 of that document?---Yes.

And you see there's a list of referees there?---Yes.

And you see one of the referees is Michael Julian from Westfield?---Yes, I do.

40

Is there any reason why you didn't contact - first of all did you know Mr Julian from working at Westfield?---Yes, I did.

Was he your superior at Westfield?---He was.

Is there any reason why you didn't contact Mr Julian about Mr Paul at that stage?---No.

Did you have any conversations with Mr Julian about Mr Paul subsequent to this tender consultancy stage?---No.

Was there any meetings or documentation prepared that outlined the way in which the tender review panel relating to the consultancy would go about their task of choosing a successful candidate?---I'm sure there would have been.

10 Do you remember?---I can't recall seeing them, no.

Did you design any document along those lines?---Not that I recall, no.

Do you recall now how many discussions there or meetings there were with the other tender review panel members about that?---No, I don't.

THE COMMISSIONER: Was there a meeting?---Oh, there was a, a Tender Evaluation Committee meeting to decide on the ultimate outcome of who would be selected, yes.

20 MS LONERGAN: And was that, that meeting was after the tenders had been received and opened?---Yes.

The other members of the tender panel regarding the consultancy were Anne Flanagan and Anne Tregeagle, is that correct?---Not, no, I believe it was Anne Tregeagle and Jason de Bruin.

Jason de Bruin?---Ah hmm.

30 All right. Could the witness be shown Exhibit 17. If you could turn to, there's a tab, the tabs down the side, Mr Morris, F1 and you see that's, that's the tender opening record, handwritten record?---Yes.

Do you know whose handwriting that is, other than your signature down the bottom?---I believe it would be Anne Tregeagle's.

All right. And you see down the bottom there's a signature of Anne Tregeagle and your signature?---Correct.

40 Dated 19 August. Now, Mr de Bruin's signature doesn't appear on that document?---No, it doesn't.

Are you confident he was one of the tender review panellists for the consultancy?---Yes.

THE COMMISSIONER: So he wasn't at the meeting then?---He was at the meeting, Commissioner.

MS LONERGAN: Are you able to assist the Commission now as to whether a meeting occurred when the tenders, at the point the tenders were open or at some later point?---I can't be sure.

Do you know whether any of the other tender panellists checked the referees of the other security consultants who placed, placed tenders for the job?
---No, I don't.

10 Did you check the references for the other, these two candidates?---I don't believe, I don't believe I did.

THE COMMISSIONER: Did you only go on price?---Not necessarily so.

What else were the other factors?---Experience, for instance I knew that Wayne Henschke had just finished a similar project for the National Gallery of Australia in Canberra.

Was that a - - -

20 MS LONERGAN: What did you know about - sorry.

THE COMMISSIONER: Was that a plus or a negative?---Oh, that would have been a plus.

MS LONERGAN: And what did you know about Daniel Paul's experience in preparing security upgrades and the documents relating to them in relation to any art galleries?---I don't know if he had any experience working with a cultural institution.

30 What did you know about his experience then other than that he had done some work for Westfield as at the day of the tender opening, that is 19 August, 2008?---Nothing.

If you could turn to the page after the one we've just been looking at with 224 in the top right corner and you'll see it's a typed document headed "Security consultants for upgrade in CCTV" and you see there's a list of tenderers?---Yes.

40 On the left side?---Yes.

And then you see halfway across the page the referee for Daniel Paul says Tony?---Yes.

Now, is that a reference to you?---It must be.

Well, what reference were you able to provide in relation to Daniel Paul at that point other than that you were aware that he'd worked for Westfield and Westfield tended to only hire consultants who were experienced and able?

---Nothing.

THE COMMISSIONER: Do you think it's appropriate for a member of the evaluation board to be a referee as well?---I, I wasn't even aware of this document's existence, Commissioner.

No, no, just answer the question, please?---Probably not.

And were you a referee?---I didn't believe I was.

10

MS LONERGAN: Are you able to say who prepared that document?---No.

And you say you were unaware of this document, you haven't seen it before?---I don't recall seeing it before, no.

And if you can turn to - - -

THE COMMISSIONER: I mean it's quite an odd situation, you've got a tender, no one checks on the referees?---I understand that, Commissioner.

20

It relates to an area about which nobody else in the Art Gallery knows, so I understand, is that right?---That would be right.

Mr Paul has no security, no experience in art galleries or cultural institutions as far as you're aware?---That's right.

So again I put to you, was the only, was the only criterion price?---Well that would have had a significant bearing on the outcome of the - - -

30

Was there anything else?---Not that I can recall.

MS LONERGAN: Do you recall discussions that the tender review panel had regarding the importance or otherwise of, of the price given that Mr Paul was significantly lower than the other two tenderers?---Nothing that's glaring obvious to me, no.

All right. Could you turn to page 227 of that group of documents. So it's still part of Exhibit F1, do you see that? And it's a tender assessment sheet and it appears to be a comparative scoring of the three applications for the consultancy. See that?---Yes.

40

And you see there's the one you seemed to have signed the one on page 227?---That's right.

Now one of the things at the top of the left side - I'm sorry, I withdraw that. On the top of the columns on the left side is selection criteria and you see there's 8 points underneath that?---Yes.

Was a discussion prior to 20 August 2008 as to how these various criteria would be valued and weighted that you recollect?---Not that I recollect.

THE COMMISSIONER: How did you - how did everybody arrive - I see that you signed it. Who else - the other members of the panel and as I understand you they were Ms Tregeagle and Mr De Bruin?---Correct.

How are they able to mark off the other items? What - on what knowledge did they rely?---I don't know.

10

What knowledge did you rely?---Well I relied on the knowledge of the information that's coming to me during the interview.

I see.

MS LONERGAN: So the document at page 227 that you're looking at was completed by you in a tender interview situation was it?---Yes.

20

And did you discuss with the other tender review panellists your marking of the individual candidates or did you each do it individually at first and discuss it later?---Well I imagine we all did individual score sheets.

THE COMMISSIONER: So this is only your score sheet is it?---I believe so.

MS LONERGAN: If you turn over to page 228 you'll see there's a similar score sheet signed by Anne Tregeagle?---Yes.

30

And 229 one signed by Jason De Bruin?---Yes.

So you all appear to have gone through the same process at least?---Yes.

Do you have any recollection of discussion after the tender interviews with the three candidates as to who would be the successful consultant and why? ---I imagine we would have had some discussions.

Pardon?---I imagine we would have had some discussions.

40

Do you have any recollection now of what the content of the discussions were?---No, not really.

Did you at any point say to Anne Tregeagle - I'm sorry I withdraw that. Did you during this decision making period regarding the consultants say to Anne Tregeagle that the reason why Daniel Paul was the cheapest of the tenderers was that he was a small operation and therefore had low overheads?---That is quite possible.

And how did you know that?---Because he would have told me.

THE COMMISSIONER: At the meeting?---Not necessarily at the meeting, no. I had met him before that.

MS LONERGAN: Are you able to say what your understanding is as to why Mr Paul was the chosen consultant, what the main factor was that favoured him?---Well other than price, no, I can't.

10 All right. So did you have any role - finished with that exhibit now so you can close that. Did you have any role in advising the Art Gallery what would be an appropriate amount to spend on the security upgrade?---The question again?

Yes. Did you have any role in advising the Art Gallery what would be an appropriate amount to budget to spend on the security upgrade?---No.

20 Do you know who did give that advice or if and when it was given?---The first I heard of a possible budget was relayed to me by Ann Flanagan soon after my appointment and she said that we needed to enter into a fairly significant security upgrade because of the theft and I can't remember exactly when but I know that the budget was relayed to me as about \$1.78 million.

Do you know who put together the budget that was about 1.7 or \$1.8 million?---(No Audible Reply)

30 Well first of all, I'll take it a step back. Do you recall when that conversation with Ms Flanagan occurred? Whether it was after the engagement of Mr Paul or before his engagement?---I know it was before.

Before?---Before.

Did it correlate to the BRI review do you know?---No. As I recall the BRI review was certainly larger than that, but I think, I think it was the available funds that were going to be available to us was about 1.78.

Do you know who made the decision as to the available funds that were going to be used on the upgrade?---No.

40 Could the witness be shown again Exhibit 17 and if that could be left with Mr Morris for the moment. Could you have a look at your score sheet on page 227 again, please? So that's behind F1?---Ah hmm.

And see item 6, concurrents with consultancy agreement? See that item? --- (No Audible Reply)

What is your understanding as to what that's referring to?---Agreement with consultancy, I'm not too sure. It doesn't make a whole lot of sense to me at the moment.

Now prior to Mr Paul putting together the tender specifications for the security upgrade, did you have any opinion yourself about appropriate brands of security cameras or software that would be capable of doing the work that was required at the Art Gallery for the upgrade?---None at all.

10 THE COMMISSIONER: So you were totally reliant on Mr Paul?---
Absolutely.

MS LONERGAN: Did you have any opinion about any cameras or software brands that appeared to be market leaders, at least in general terms prior to Mr Paul putting together the specifications for the upgrade?---No.

The shootout you went to in July 2008, did anything come of that in terms of Mr Paul indicating to you which cameras if any he favoured potentially for the security upgrade?---Not that I recall.

20

When you became aware of the budget from Ms Flanagan, as I understand it, did you tell Mr Paul what the budget was going to be?---I have no specific recollection of doing so, but at some point in time he would have known.

Did you receive a document from Ms Flanagan that outlined what the budget was going to be?---I believe I did.

30 Do you recall what the form of the document was? Whether it was a minute of a meeting or a memo personally to you or the style or content?---It wouldn't have been that formal. It would have been just a short note, typewritten note, I would think or it might even be a handwritten note just telling me roughly what we were expecting to be paying for it.

From your answers is it correct to assume that you didn't have any role in checking the budget or what would be an appropriate allocation for the upgrade?---No, I didn't.

40 And to that extent, and in relation to that matter you were entirely reliant on Mr Paul. Is that right?---Yes.

And did Mr Paul tell you – I'll withdraw that. At some point did you engage Mr Paul or request Mr Paul to start preparing specifications for the upgrade?---Yes, he was engaged.

Are you the one that asked him to do that or was it a combination of requests are you able to say?---I can't say who actually made the formal

awarding of the consultancy to Daniel Paul. I would imagine it was Anne Tregeagle.

Before, assuming that the tender specification, the final version is dated February 2009, do you recall attending any meetings where what was going to be required that the tender specification was discussed with Mr Paul?
---There were a number of meetings that Anne Tregeagle convened. It stands to reason that those were the meetings that we were involved in, yes.

10 THE COMMISSIONER: Mr Morris, would you mind speaking a bit louder. It's quite difficult to hear?---Yeah.

MS LONERGAN: Now did Mr Paul tell you he was liaising with any particular suppliers so that he could prepare the budget?---No.

Did you ask him how he was coming - I withdraw that. Did you ask him how he was able to arrive at the figures that he was in terms of allocation of cameras and software and other technical equipment?---No, I didn't.

20 You just relied on his expertise and his way of going about that task?
---Correct.

If he had told you that he was liaising regularly with a particular supplier, Q Video, would you have - what would your view have been of that?---I probably wouldn't have been entirely happy with that.

And why not?---Well, it gives the impression that there is an issue in objectivity in terms of providing or, providing opportunities for a company to have an opportunity to be considered above everyone else.

30 THE COMMISSIONER: What about information, would you be concerned about the flow of information to such an entity or not?---I would be concerned with, with any information of a discreet or confidential nature that goes to any supplier or contractor before the tender.

MS LONERGAN: Did you receive an impression in the late stages of 2008 that Mr Paul was favouring any particular supplier - - -?---No.

- - - in relation to the upgrade?---No.

40 And you attended a Melbourne Cup lunch in November 2008 as Mr Paul's request, do you recall that?---Yes, id o.

And was it explained to you by Mr Paul why you were being invited to that lunch in terms of was it a business lunch or purely social?---I think it was a bit of both, more social rather than business.

Do you recall meeting staff from Q Video at that lunch?---No, I don't.

And if I can give you some names just to, to see if that prompts your recollection, Mr Theissen?---I know Mr Theissen, yes.

Did you meet him at the Melbourne Cup lunch?---I can't say that I remember seeing him there.

Do you recall when you first met him?---I think I first met him when he came to the Art Gallery with some camera products for us to trial.

10

And do you remember what month of what year?---(No Audible Reply)

Well, let's put it this way, was it prior to the tender specifications being released to the tenderers which was the - - -?---I believe so, I believe so.

Late 2008 perhaps?---It sounds reasonable.

Were there any other suppliers to your recollection who attended the Gallery to show camera equipment to you?---Not that I recall.

20

Do you recall Mr Paul mentioning to you that he'd invited other suppliers, that is suppliers other than Q Video, to attend the Art Gallery to trial camera equipment in the late stages of 2008 or January 2009?---Not that I recall.

THE COMMISSIONER: Could, could persons, could suppliers of camera equipment attend the Art Gallery just to, to see where the cameras would go and so on without you knowing?---Well, suppliers could have come to the Gallery during open hours and not met and just did a, a blind walk through but I would find that unlikely that it would give them much benefit.

30

MS LONERGAN: If the purpose of the camera trial was to practice or to have a trial as to what views cameras in certain positions could take and what, what could be captured by their line of vision, would you agree with me that that would be more likely to be done after hours?---Yes.

Because otherwise it would reveal the location of security cameras within the building, that's right, isn't it?---Yes.

Potentially. Did you meet any, going back to the Melbourne Cup lunch, did you meet any staff of Kings Security at that lunch?---Not that I recall.

40

Do you remember when you first met Charlie Diekman from Kings?---I believe I met Charlie Diekman on the first occasion around October/November of 2008.

And what was the setting of that meeting?---I met him at the Art Gallery early one morning where he had been requested to attend by Daniel Paul.

Why had he been requested to attend?---Because I had asked Daniel Paul if he knew of a reputable contractor who could undertake a small project for me.

You hadn't met Mr Diekman before that meeting?---Not that I recall.

Had you met any other - - -

10 THE COMMISSIONER: What do you mean for, for you personally?---No, for the Art Gallery.

MS LONERGAN: Prior to that meeting with Mr Diekman had you heard of Kings Security?---My initial answer to that was no, but I, I know from my records that Kings Security actually provided a quote to me for a small tender, a small Canberra project I think in 2008 but I had forgotten about that.

Was that on the recommendation of Mr Paul?---No, I don't believe so.

20 And why don't you believe so?---Well I don't think I'd met Daniel Paul prior to that.

So if the small camera job that was done occurred after you met Mr Paul, that is after July 2008 does that assist your recollection as to whether it was Mr Paul who recommended Kings for that small job?---My recollection was that the first job that Kings actually undertook was for the small piece of equipment to be installed at the Art Gallery and that was in October/November 2008. I thought that that was shortly, it was shortly before that that Daniel Paul had provided that name of Kings to me but and
30 I, I can't now remember how Kings came to be invited to quote for the Canberra job that - with - - -

Was the, was the small job an installation of a dome Canberra at the Whiteley Gallery?---No, no.

40 Could the witness be shown a Kings Security tax invoice dated 12 November 2008. Could you have a look at that tax invoice and the attached purchase order, sorry. The attached invoice from Kings Security and the Art Gallery of New South Wales purchase order?---Yes.

And you see that's dated - well all those documents are dated 12 November 2008?---Yes.

Is that the small Canberra job that you're thinking of?---That's not a, that's not a, that is not a Canberra job. I, I note that my purchase order says CCTV Canberra but it's actually a, a PIR Passive Infrared Detector and I was of the view that that was installed in the Art Gallery not at the Whiteley Gallery although it might be another job I'm confusing it with.

THE COMMISSIONER: I don't understand that. A job number refers to a camera and the purchase order refers to a camera. So why do you say it's not a camera, what's the mistake?---Well because I know that a (not transcribable) detector is a PIR.

Yes. But it says plus CCTV camera?---Yes, I see that.

10 And is that your writing?---Yes, it is, that is my writing. But the price that's quoted it, it doesn't appear to be consistent with providing a PIR and a camera.

But look at the job number?---Yes.

That's a document from Kings Security?---Yes, it is.

That says (not transcribable) Panasonic (not transcribable) camera, charge \$475 for it. Perhaps it was a (not transcribable)

20 MS LONERGAN: Does it seem cheap, Mr Morris?---Um - - -

For the work that's outlined on the tax invoice - - -?---It's, it's, it's, it's hard, it's hard to say. Maybe I'm just confusing the two products with, with one sight, maybe it was a curtain detector at the white - at the Art Gallery and the camera at the Whiteley Gallery, I'm just not sure.

THE COMMISSIONER: Well the job number doesn't - the job number says the Domain, location the Domain?---Yes.

30 Although the tax invoice says Whiteley Gallery - - -?---Yes, well but the first document the tax invoice shows the Whitely Gallery for the camera.

Yes?---The second document which is the customer job number also shows the Whiteley Gallery.

Does it?---Yes.

40 Where do you see that?---Supply and installation of Panasonic dome camera in place of faulty unit at the Whiteley Gallery, Surry Hills.

Yes, I see?---It may have, it may have escaped my mind, but I don't think there was any jobs at the Whiteley Gallery at that time. But this is a number of years ago.

MS LONERGAN: Is it reasonably possible Mr Morris that you're confused about the details of the job and this was in fact the first job Kings had done at the Gallery or for the Gallery?---Yes.

THE COMMISSIONER: As far as your memory allows you to say did Kings do two jobs or three jobs for the Gallery?---Had you asked me that before I gave evidence I would have said two jobs. I would have said the (not transcribable) PIR at the Gallery and then later it would have been some access control to a door in the Gallery.

And then there's the main contract?---Correct.

That's three jobs?---Correct, yeah.

10

MS LONERGAN: I tender that tax invoice and attached customer book job reference from Kings and the Art Gallery of New South Wales purchase order.

THE COMMISSIONER: Yes. A bundle of documents, a bundle of three documents with the Kings tax invoice of 12 November, 2008 constitutes Exhibit 114.

20

**#EXHIBIT 114 - KINGS INVOICE NUMBER 44616 AND
CORRESPONDING PURCHASE ORDER DATED 12 NOVEMBER
2008**

MS LONERGAN: And if Mr Paul hadn't been the one who introduced Kings to the Gallery, have you got any recollection as to who else or where else you got their name from?---No, I don't.

30

Could the witness be shown a further tax invoice, the top right hand corner has page 305 and it's dated 30 January, 2009. You gave some evidence a minute ago along the lines of you thought the second job that Kings had done was the supply and install the access control readers?---Yes.

And you'll see this invoice dated 30 January, 2009 does that accord with your recollection as to what the second job Kings did was?---That's right.

I tender that tax invoice and Art Gallery of New South Wales purchase order.

40

THE COMMISSIONER: Yes. The tax invoice number 4-6-6-2-1 and the Art Gallery purchase order of 2 February, 2009 constitute Exhibit 115.

**#EXHIBIT 115 - KINGS TAX INVOICE NUMBER 46621 AND
CORRESPONDING PURCHASE ORDER DATED 2 FEBRUARY
2009**

MS LONERGAN: Mr Paul suggested that you travel to Melbourne with him in November 2008. Do you recall that?---Yes.

And what did Mr Paul explain to you was the purpose of that visit and who did you meet with him?---The purpose of the visit was to attend a shopping centre I believe out near Geelong somewhere and it was to view an operation CCTV system. And I believe it was a Verint system.

10 Did Mr Paul say anything at around that time, that is November 2008 to the effect that he was considering Verint as the system for the Art Gallery upgrade for the closed circuit TV aspect of the contract?---He would have, yes.

You're saying he would have, you don't, you don't - - -?---I'm not too sure, no.

All right. Did Mr Paul take you to meet any staff of the Melbourne office of Q Video during that trip?---We met someone known to Mr Paul, but I don't know who or the company that they were representing. Then name - - -
20

Was that - I'm sorry?--- - - - the name, the company's name escapes me.

Was that at the shopping centre you meant then or did you go to offices? ---No, I believe we went to the shopping centre.

And during that visit to Melbourne and the discussions that you had with Mr Paul at that time did Mr Paul tell you anything about Pelco cameras or software systems that may be appropriate for the Art Gallery?---It was around about that same time that he raised the issue of Pelco Endura, yes.
30

All right. And what did he say about it?---Only that he was expounding the virtues of this, this Endura, Endura system, Endura 2 system.

You're saying your recollection is that was as early as November 2008?--- Well he certainly was, was keen on Pelco as I recall whether it was at that time Endura 2 I can't be sure.

And what was he - are you able to say who his contact was at Pelco in relation to - - -?---At that time?
40

Yes?---No, I don't.

And when did you first become aware of who his contact was at Pelco, he being Mr Paul?---It would certainly have been around about the time we were preparing or Daniel Paul was preparing the, the tender spec.

Was it prior to the tender specification being delivered or made available to the tenderers?---I would imagine it would have been before.

So you would imagine it would have been. Are you confident that it was in fact before?---Yes, I am.

Were you taken to any demonstrations of the Pelco camera systems prior to the tender specifications being provided to the tenderers on the 3 February 2009?---Not that I recall.

10 Did you ask Mr Paul whether he was going to incorporate in the tender specifications the Pelco cameras or Pelco system as a preferred or benchmark product for the CCTV aspect of the contract?---Can you repeat that question again, please.

Did you talk to Mr Paul about whether he was going to incorporate or, or choose the Pelco system for the Art Gallery?---No.

THE COMMISSIONER: As a preferred or a benchmark product in the specification?---No.

20 MS LONERGAN: Given Mr Paul had indicated to you that he was a great fan of the Pelco camera system. ,that's the position isn't it?---Yes.

Did, did it surprise you that that wasn't ultimately the system that was benchmarked for the CCTV aspect of the tender?---It, it couldn't have been because it wasn't available.

And how do you know it wasn't available?---Because Mr Paul told me so.

30 Did you have any other basis in Mr Paul's words to you about it that it wasn't available?---No.

I'm not suggesting you should have. Did you personally have any contact with any representatives at Pelco prior to the tender specifications being delivered to the tenderers on 3 February about the availability or otherwise of the Pelco Endura 2 system?---I can't be sure.

40 Did you have any conversations with - I withdraw that. Who on your understanding was a member of the staff at Pelco in late 2008, early 2009 who would have that information?---I, I think it's Terry Yallouris.

Did you have any conversations with Mr Yallouris yourself about the Pelco system prior to 3 February 2009?---Prior to 3 of?

3 February which is when the tender specifications went to the tenderers? ---Not that I recall.

You would recall that wouldn't you?---I would hope so.

From your answers can we assume and please tell me if this is wrong that all the information regarding Pelco came to you filtered through Mr Paul?

THE COMMISSIONER: At what stage?

MS LONERGAN: Prior to 3 February 2009. Thank you, Commissioner?
---I'm not confident, no, it - I, I do recall some conversations in, in the company of Mr Paul and I believe Pelco about the availability of Endura 2.

10 Who from Pelco?---The only name that comes to mind is Terry Yallouris.

Are you able to say when these conversations occurred?---No, I can't.

THE COMMISSIONER: But you're saying they were before, how confident are you that they were before the tender was made available to tenderers, the specification was made available to tenderers?---I'm, I'm not confident at all, sir.

MS LONERGAN: So - I withdraw that. These conversations in the
20 presence of Mr Paul and Mr Yallouris may well have occurred after 1 March, 2009? Is that what - - -?---Yes.

- - - your answer to the Commissioner suggests?

THE COMMISSIONER: 2 March?---Yeah, it has been some time and I'm, I can't be any more certain than that, it could have been after.

MS LONERGAN: Do you recall going to a demonstration with Mr Paul of
30 the Pelco Endura 2 system where Mr Yallouris was also present and demonstrated the Endura 2 system?---I remember going to the Pelco office at Ultimo to look at a system but I'm not too sure what system that was.

Did you go more than once to the Pelco office at that address you've just stated?---It could have been two, yes, it could have been two or three at, at varying periods during the - - -

THE COMMISSIONER: How many times did you see an exhibition of cameras there or camera systems?---Once.

40 And you say, and your recollection is that this was of a Pelco Endura system?---It was a Pelco system.

A Pelco system but you don't know which one?---No.

Were you told that this was the one that was going to be specified, do you remember that?---No.

MS LONERGAN: You don't remember the context of attending the Pelco offices for the meeting with Mr Yallouris together with Mr Paul?---Pardon me?

The context in which you actually attended the Pelco offices, do you recall what that was?---It would have been to look at a, the Pelco system but as I say, I can't be sure now what version system it was.

10 THE COMMISSIONER: Yeah, but was it the system that was going to be specified or can't you even say?---I can't even say that, sir.

MS LONERGAN: Are you able to say whether it's the system that in the end was put in in the Art Gallery?---I'm not confident.

Are you able to say when you first heard of the Pelco Endura 2 system? ---Pardon me, the question again?

20 That's all right. Are you able to say when you first heard of the Pelco Endura 2 system?---Oh, it was certainly before the tender, the tender, tenders went out for seeking expression of interest.

THE COMMISSIONER: Are you sure it was the Endura 2 system or could it have been some other Endura system?---There were, there had been talk about Endura 2.

And any talk about anything else relating to Endura?---And the availability of when it was going to become available in Australia.

30 But I'm asking you whether there'd been talk about any other system of Endura?---Oh, the only other system that was available at that time was Endura 1.5 I believe.

And was there talk about that?---There would have been, yes.

MS LONERGAN: Do you remember the content of the talk about the Endura 1.5 system?---Only that it didn't, it didn't have the benefits that Endura 2 had that could provide us at the Art Gallery.

40 Are you suggesting that the first time you heard about, I'm sorry, I withdraw that. Are you suggesting that the discussion about Pelco Endura 1.5 was held in the context of a discussion of its comparative benefits to Pelco Endura 2?---That would be a fair statement.

Who was party to this discussion?---Daniel Paul and the representative from Pelco.

And where did the discussion occur?---That I'm not sure.

Now did you have any role yourself in preparing the tender specification document?---No.

Did you provide Mr Paul with any instructions or drawings or documents to base the specification on?---I can imagine that I would have provided him with floor plans of the Gallery.

Anything else?---Not that I can recall.

10 Could the witness be shown Exhibit 66, please? Sorry, Mr Morris. Have a look at page 41 of that document.

THE COMMISSIONER: So Exhibit 66, page 41.

MS LONERGAN: Page 41.

MR LLOYD: What document is it?

MS LONERGAN: Exhibit 66 which is the tender document.
20

THE COMMISSIONER: And mine starts at 361.

MS LONERGAN: Oh I'm sorry, Commissioner, I'm looking at the bottom right hand corner, so it's page 401 in the top right corner. Now Mr Morris, are you able to say whether you reviewed the tender, first of all your understanding is Mr Paul prepared this tender document?---Yes, he did.

And did you review it before it was submitted to the tendering parties?---I imagine I would have, yes.
30

THE COMMISSIONER: From what you've said to me, and please correct me if I'm wrong, when you get to the technical specifications it would have meant very little to you?---Correct.

MS LONERGAN: So could you have a look at under heading 5, Technical Specifications 5.1, see description of CCTV system, and you see it says, CCTV system shall be system, system or approved equivalent?---Yes, I see that.

40 Are you able to assist with your understanding of what the system for the CCTV was that was benchmarked by Mr Paul at this stage of the tender?
---It had to be the Verint system.

It had to be. And why do you say that?---Because the Pelco system that we were hoping to get wasn't available.

THE COMMISSIONER: That's Pelco 2, Endura 2?---Endura 2.

MS LONERGAN: And what is your basis for that statement?---Because the Verint system was the only other system being offered as a, as a good alternative by Mr Paul.

I'm sorry, what is the basis for your statement that the Endura 2 was not available?---Because Daniel Paul told me that it wasn't available.

10 All right. Did you yourself check with Pelco whether the Endura 2 system was available at the time the tender specifications were distributed on 2 February?---Not that I recall.

So you were reliant on Mr Paul's information about that?---Yes.

THE COMMISSIONER: When you say that, that it had to be a Verint system, is that based on what you were told or was it based on what you were read or some combination of both?---Well I knew that the complying tender had to, had to be a Verint/Lenel system. That was the basis of the complying tender.

20 And how do you know that?---Because that's what we agreed on.

Who is we?---The Tender Evaluation Committee.

And why did you agree on that?---Because that was the solution that was being offered by Daniel Paul as best fitted our requirements.

30 MS LONERGAN: Do you recall whether in the context of those discussions with the tender review panel whether Mr Paul presented that there was also a possibility of a Pelco Endura 2 system being responsive to the Art Gallery's requirements?---There was some discussions but I don't know in what, what format or what forum, but we were aware that there was an Endura 2 product that was, had the potential to meet all our needs.

And this is prior to the distribution of the tender document Exhibit 66?
---Yes.

THE COMMISSIONER: As I understand your evidence, please correct me if I'm wrong, the tender specification was drawn up by Mr Paul - - -?---Yes.

40 - - - and your understanding based on what you were told by Mr Paul was that specification was for a Lenel Verint system and not for a Pelco Endura system because although the Pelco Endura 2 when available would comply with all the needs it wasn't available and hence you had to go for the Lenel Verint system?---Correct.

Have I understood you correctly?---Absolutely.

MS LONERGAN: And that was the state of the - that's your understanding at the time the tender document was provided to the potential tenderers?
---Correct.

In, in terms of preparing the tender specification document, that's Exhibit 66, did Mr Paul tell you that he had provided some information about the Art Gallery budget to the company that assisted him with some of the technical information that he's incorporated into the tender?---No.

10 And if you had known that what would have been your view?---It's difficult to answer that question now but at the time I can only imagine that I wouldn't have been very impressed.

Combine that with that with the company that assisted him preparing the budget were invited as a supplier to facilitate and cooperate with integrators to complete their Art Gallery tender submissions. What does that add to your view?

20 MR LLOYD: Could you repeat that (not transcribable)

MS LONERGAN: I'll withdraw that question and ask it a better way. Mr Paul had told you that the company that helped him prepare the tender specifications he intended to also invite as a supplier to tender or provide assistance to tenderers on the Art Gallery contract what would have been your opinion about that?---I would have had some reservations about that.

30 Would you have thought it was inappropriate that that company be invited to be a supplier to tender on the project or assist integrators to tender on the project?

THE COMMISSIONER: I think there's a difference. I think - you have to be accurate.

MS LONERGAN: I'll withdraw that. I'll go about it this way, Commissioner.

Could the witness be shown Exhibit 65 tab 15. Can you see that's an email from Daniel Paul to Tony Theissen at Q Video Systems?---Yes.

40 And you see - I think you've been in court when this email's been discussed and you see Mr Paul has stated, "This is the budget spreadsheet I'm using et cetera, we are over 300k right now. Do not email this around." Do you see that?---I see it.

And do you agree that that appears that Mr Paul has been sharing details of the Art Gallery's budget with Mr Theissen at Q Video?---It would appear so.

And if you had known that he had done that what is your opinion about the appropriateness or otherwise of Q Video being invited to supply equipment to tenderers on the project?---That would have been inappropriate.

THE COMMISSIONER: But what, what will your - I don't think they were invited to supply were they?

MS LONERGAN: They were, Commissioner.

10 THE COMMISSIONER: Were they?

MS LONERGAN: I can - I'll take Mr Morris to the document.

THE COMMISSIONER: Yes. I think that would be a good idea for my sake.

MS LONERGAN: Would you like me to do that now, Commissioner?

20 THE COMMISSIONER: Well I would just like to see it.

MS LONERGAN: Yes. Exhibit 2 - R3, please. If that could be shown to Mr Morris.

And you see that's an email from Mr Paul dated 3 February, 2009 to various recipients?---Yes.

And you see one of the recipients next to the cc on the left is Paul Thompson. Do you see that?---Yes.

30 And you're aware aren't you that Paul Thompson was the state manager of Q Video?---Yes.

And would you agree with me that that email suggests that Paul Thompson has been provided with the tender specifications by DVD on 3 February, 2009?

THE COMMISSIONER: You see the second paragraph?---Yes. Yes, I see that.

40 MS LONERGAN: And you see about two thirds of the way down the page under there will be a mandatory site there is the comment, I'm sorry, two paragraphs down from that, "suppliers, wholesalers and manufacturers will only be permitted to have one representative attend a site briefing". Do you see that?---Yes, I see that.

That suggests doesn't it that the suppliers and wholesalers were allowed to have a representative attend the briefing?---That's right.

And would you agree with me that it would be – I'll withdraw that. Would you agree that Q Video would have an advantage over other wholesalers and suppliers who hadn't been party to the budget spreadsheet that I showed you, Exhibit 65, tab 15?---Yes, that would be the case.

And would you agree it's therefore inappropriate to include Q Video to be involved supplying product to the integrators because they may well include information that's confidential to the Art Gallery?---Correct.

10 THE COMMISSIONER: Had you been told that this was what Mr Paul had done, that is sent the budget spreadsheet to Q Videos what would you have done?---I would have reported that to the project manager.

MS LONERGAN: Reported that to whom?---The project manager, Anne Tregeagle.

And what would have been your opinion about the, the conduct – I'll withdraw that. Who decided what the procedure would be, I'm sorry, I'll withdraw that. Who decided that the tender would be dealt with by closed
20 tender?---A selective tender.

A selective tender?---It would have – I don't know who thought of, initially thought of that view, it wasn't me.

Was it a matter for debate amongst the tender review panel?---I believe it would have been.

And when you say you believe - - -

30 THE COMMISSIONER: Do you remember that it was?---No, I don't.

MS LONERGAN: And who decided what integrators would be invited to tender?---We chose the integrators on the basis of whether they were a VAR of the system that we were ultimately calling for as a complying tender.

The system being the Verint system or the Lenel system?---Verint/Lenel, yes.

40 THE COMMISSIONER: What does VAR mean?---Value Added Reseller I believe.

MS LONERGAN: Who identified companies that would respond to that description?---I believe that was me.

Did you look at some secondary source for that?---I believe I contacted the, the distributors of the products and asked them for a list of their VARs.

Was Kings on that list or are you able to say now or not?

THE COMMISSIONER: Well they were invited to tender?---Well I assume that they were.

MS LONERGAN: Do you recall other integrators being added to the list by Mr Paul at a later point in addition to those that you'd identified?---No, I don't.

10 Do you recall that ACG were actually added to the list after you had identified a list?---I know ACG were on the, were invited to tender, but I don't know how they came to be on that list.

Who decided which suppliers would be invited to tender, suppliers and wholesalers? I'll withdraw that. Who decided what suppliers and wholesalers would be invited to attend the tender briefing?---Daniel Paul.

Did you have any experience yourself as to appropriate suppliers or wholesalers to be invited?---No.

20 Could you have a look at Exhibit 17, F2 please, that's tab 2 of Exhibit 17. Can you see under the heading "Preference for selective tender" there is a comment "five to six preferred companies identify and nominate". Now, are you able to say whose idea that was?---No, I can't.

And did you keep notes of this meeting which appears to have occurred on 14 January, 2009?---Not that I recall.

30 And two lines under there's the word "Financials", are you able to assist with what that's a reference to?---No.

And further down the page, the fifth item under "Scope of works" is "Tender evaluation protocols". Are you able to assist now with what was discussed regarding tender evaluation protocols?---Well, I would imagine, it suggests to me that it was the rules, we were discussing the rules for the tender evaluation.

Say that again, I'm sorry?---It would appear that we were discussing the rules if you like for the tender evaluation.

40 Yes. And are you able to assist with the content of what those rules were?

THE COMMISSIONER: Were they in writing or were they discussed, were they orally discussed between the panel and worked out in that way? ---That I can't be sure but I, I'm, I believe that it's the other issues not associated with cost that would give us an overall picture of the best candidate for the tender.

Sorry, I'm not sure if I understand you, I beg your pardon. What do you mean?---(No Audible Reply)

Sorry, you said that there would be other issues not involving costs that would determine who would be the successful tenderer, is that what you said?---Yes, yes.

And is that what you have in mind by tender evaluation protocols, would those other issues be determined by these protocols?---Yes.

10

MS LONERGAN: And you don't recall now whether there was any written document that was a tender evaluation protocol for your panel to follow?---I can't recall now, no.

Had you had a look at home for documents of this nature or had a look at your office at the Art Gallery for documents that might respond to the description tender evaluation protocols?---Only in recent times and, and I haven't gone through all the documentation.

20

And you haven't been able to find anything that responds to that description?---No.

Could you have a look at tab 5 please of Exhibit 17 and you see that's a document authored by Daniel Paul and you'll see on page 459, the top right-hand corner there's a graph that sets out various CCTV products? ---Yes.

30

And you see that there's ratings, apparently ratings given and Lenel is rated 84 and Pelco 76, you see that?---Yes.

Are you able to say whether you had any demonstration at, at or before 31 January, 2009 of those cameras?---As of what date, ma'am?

31 January, 2009?---No, I can't recall.

Do you know why Mr Paul prepared this particular document, the 31 January, 2009 document?

40

THE COMMISSIONER: At page 459, is that what you mean?

MS LONERGAN: No, I'm asking about the document generally.

THE COMMISSIONER: The whole document?

MS LONERGAN: Including page 454 to 473, you see he's titled it "Access control and security," I'm sorry, "CCTV access control and security upgrade strategy for tender", you see that?---(No Audible Reply)

Can you assist now with the context in which this document was prepared or why?---Well, I'm looking at the statement under the graph that says, "The products shortlisted as most appropriate for the Art Gallery of New South Wales" and they're alphabetically listed so I presume he was putting those forward as possibilities for us.

10 All right. And in terms of the document as a whole, page 455 to 473, you see he describes it as a strategy for tender, are you able to assist with why this detailed document was prepared at that stage, 31 January, 2009, so that's just a few days before the tender specifications are provided, provided to the tenderers?---It would have been provided to the Art Gallery to assist them in having some understanding of the systems he was putting forward.

Is that what you assume from looking at the document today rather than having any specific recollection as to why it was - - -?---Correct.

- - - provided at the time. Could you turn to page 474, you'll see it's a statement of probity from SCI?---What page again, ma'am?

20 474 so it appears behind the document we've just been looking at?---Yes.

And you see it's dated 1 February, 2009. Are you able to - and it's directed to you and Ms Tregeagle, do you see that?---Yes.

Are you able to assist as to why a statement of probity was provided at that point?---Because Anne Tregeagle had sought it.

30 Was it your understanding that was usual procedure or proper procedure?
---I would imagine that was part of the, the process.

All right. And have a look at the second last paragraph on the first page of that document and read that to yourself. Did you have any discussions with Mr Paul as to whether he had any friendships or commercial arrangements with any of the integrators who were to be invited to tender on the upgrade?
---No.

40 Did you take this document at face value, that what Mr Paul was in fact telling you was that he did not have any commercial arrangements firstly with any of the proposed integrators?---That's correct.

Did Mr Paul tell you that Anthony Grubisic from ACG was a friend of his?
---No, he didn't.

Did he tell you that he and Mr Grubisic had both been directors of a security company in 2002 for a period of three months?---No, he didn't.

Did Mr Paul tell you that Mr Diekman from Kings was a friend of his?
---No, he didn't.

Did Mr Paul tell you that he had an ongoing gambling relationship with Mr Paul since about 2007 where bets were exchanged between them in the thousands of dollars?---No, he didn't.

Did Mr Paul tell you that at different stages leading up to 2009 he, Mr Paul, could be in debt to Mr Diekman for some thousands of dollars and Mr Diekman could be in debt to Mr Paul for some thousands of dollars?
---No, he didn't.

10

And if you'd know those matters regarding firstly Mr Diekman what assessment do you make of Mr Paul's statement of probity in that paragraph I've just drawn to your attention?---That would be, appear to be in conflict with his statement of probity.

And in terms of his being a friend of Mr Grubisic's, what do you say about that paragraph in the light of that information?---Again, that's in conflict with his statement of probity.

20 Now when - you were invited by Mr Paul to - - -

THE COMMISSIONER: Excuse me, Ms Lonergan.

MS LONERGAN: I'm sorry.

THE COMMISSIONER: Have you finished with the, with this document?

MS LONERGAN: Yes.

30 THE COMMISSIONER: There are some questions I'd like to ask - - -

MS LONERGAN: Yes.

THE COMMISSIONER: - - - Mr Morris about if you please.

Mr Morris, the questions I'm going to ask you now concern the relationship between Lenel and Verint as far as you understood them and how you understood the relationship between Pelco and Lenel and Verint as being preferred options, as preferred solutions, all coming out of this document
40 which, so I'd like to show you the document, being the one at tab 5 of - - -

MS LONERGAN: Exhibit 17, Commissioner.

THE COMMISSIONER: - - - Exhibit 17. And I if you go to 459 first, these are just matters I want to show you before asking you the questions. You can see there under CCTV you see Lenel has got, is rated 84 which is the highest rating, Pelco 76 and Verint is rated 76. Do you see that?---Yes, I see that.

And then if you turn please to page, you'll see, sorry, if you go to attachment 1 to this document which starts at 464 and you see there it's got a heading Observations And Or Factors For Consideration Relating To Assessed Product, that's the heading on 464?---464 is attachment 1.

THE COMMISSIONER: Attachment 1. And the line under attachment 1. That tells you what follows?---Yes.

- 10 And then if you go to 465 you'll see CCTV Lenel and the, that says that, there's a little blurb about Lenel, but what I want to draw to your attention is the statement that Lenel, starting at the top, well under CCTV, Lenel CCTV solutions are relatively new to the suites of softwares released by Lenel. It is for this reason that SCI has along with the management determined that the Lenel solution should be considered if offered but have not specified it as the preferred solution. Do you see that?---Yes, I do.

- 20 And that is, even though it is, even though it has the highest rating, if you then turn over the page to, sorry, if you then go to Pelco and Verint, I can't find it, Pelco, 464, the page before is Verint and you recall that Verint has a lower rating and if you just read what it says there about Verint to yourself and tell me when you're finished?---Yes, I see that.

So, so I think the impression given at reading that is that it's a possibility, you can choose it if you want to and if you do we'll get the warranties, et cetera. But from what has appeared so far I think it fair to say that it's, it's not the one most recommended by the consultant because of the rating. Do you agree with that?---Yes.

- 30 And then if you read Pelco, what's said about Pelco on that page and if you read that to yourself, please?---Yes.

And there is the reference to the fact that it's one of the most respected names in CCTV worldwide and other flattering remarks, but it's again a promise to obtain extended warranties and the latest release of software. Now what – so the words used in attachment 1 are consistent with the rating given by the consultant earlier on, to which I've drawn your attention at page 459?---Yes.

- 40 Now did you – it seems from that when I read it that there was no, no product was specified as the preferred solution. Am I wrong on that?---No. The preferred, the preferred solution was the solution that we were told was available and that was the Lenel/Verint solution. That was, that formed the basis of the complying tender.

Did you understand there to be a difference between the notion of a preferred solution and a benchmark solution?---No, I would have assumed they meant the same.

Did you understand that there was one particular solution in the specification that the evaluation panel regarded as the benchmark or preferred solution, other than what you've read here?---I would have assumed it was - the preferred solution was the benchmark and the preferred solution - - -

And that was?--- - - - was the Lenel/Verint system.

10 But I've shown you that the words expressly say that the consultant is not specifying the Lenel system as the preferred solution. You see that?---I see that.

Is that, is that different to what you were told or was it what you were told or can't you remember?---As I say, what I was told was that the Lenel and the Pelco Endura 2 system would have been the system that was recommended - - -

20 Yes?--- - - - by Daniel Paul, however it hadn't been released or was available in Australia so there was no point in us making that the, the basis of the complying tender because we knew at that time that it wasn't going to be met. It wasn't available.

And therefore?---And therefore we opted for the second solution which was slightly less appealing although still quite appealing was the Lenel/Verint system.

30 Now Mr Morris, I want to ask you another couple of questions about this and I will, I will ask you to be, please as candid as possible. And the questions are not designed to reflect adversely on you at all. I just want to get to the bottom of this. The bottom of the fact that the document says no Lenel, that we have not specified Lenel as the preferred system, but your understanding, as you've said now, that from discussions it was the - as between the members of the evaluation board, it was the preferred solution?---The Verint system?

Yes, the Verint?---Yes, correct.

40 Yes. Did you read this document, this is what I'm asking you to be candid about, this document at tab 5 dated 31 January, 2009, did you read it with care and understanding or did you, I don't want to say skim through it, but read it quickly and relying largely on somebody else because of your lack of technical know how in the area?---Mmm.

What is, what is the truth about that?---I regret to say it was probably the latter.

Was that – are you able to say, and if not please say so, whether that was apparent generally to the members of the evaluation board that is to say that you did not have the technical know how to really appreciate the respective merits of the different solutions?---That would be a fair statement.

It was apparent to all?---It was not apparent.

It was not apparent?---No.

10 Right. Yes, thank you. Yes, Ms Lonergan.

MS LONERGAN: Mr Morris, you were invited by Mr Paul to attend a conference in Las Vegas in March 2009?---Yes.

20 And what was explained to you by Mr Paul as to the usefulness of your attending that conference?---It gave me on behalf of the Art Gallery to attend one of the largest trade shows in his words in the world that would far out - would far surpass what was available in Australia, to see the latest and greatest technology and then also have an opportunity to meet up with representatives of Pelco.

And in relation to the latter point the opportunity to meet up with representatives from Pelco do you recall whether that was raised when Mr Paul first spoke to you about going to Las Vegas?---No, I couldn't be sure.

Do you recall whether it was before you received a letter from Mr Paul inviting you about Las Vegas?---(No audible reply)

30 That is the mention of Pelco?---I can't be sure.

Could you have a look at tab 3 of Exhibit 17.

MR LLOYD: What was it?

MS LONERGAN: Tab 3.

MR LLOYD: Of what?

40 MS LONERGAN: Of Exhibit 17.

And you see that's letter from SCI to you?---Yes.

Dated 19 January 2009?---Yes.

And if you turn to the second page of that document and you see the fourth last paragraph, sorry fifth last paragraph there's a comment, "this will include a Pelco factor tour"?---Yes, I see that.

Right. Now are you referring to only that it's including a Pelco factory tour or did Mr Paul explain to you that there would be a larger interface or a more important aspect in relation to the Pelco organisation? Do you understand my question?---No, I'm sorry I don't.

I put it very badly, I'm sorry. You, you answered one of my questions a minute ago along the lines of that Mr Paul had explained to you that one of the reasons to go to the ICS trade show was that you couldn't have some interface with the Pelco manufacturers?---Yes.

10

Yeah. And did Mr Paul explain to you why he was so interested in you having an interface with the Pelco manufacturers?---No.

Did you have an impression that it was in some way relevant to the camera systems that might be chosen for the Art Gallery? That is interface with Pelco manufacturers?---Well that couldn't have been.

I beg your pardon?---That couldn't have been the case.

20

It could not have been?---Because of the date the letter was dated.

All right. Why is that?---Well that was dated 19 January 2009. And I'm not too sure whether we had made up our mind by then whether it was going to be a Lenel Verint solution or a Lenel Pelco solution.

All right. Well we had a look at the tender specifications before and you'll recall it had system, system - - -?---Yes.

30

- - - for the CCTV. So you're unable to assist the Commission now as to whether any decision had been made as at 19 January as to the benchmark system for the CCTV aspect of the contract. Is that what you're saying? ---That's right.

40

Does this - I withdraw that. Did your conversations with Mr Paul give you any impression that Mr Paul was still considering his options in relation to the CCTV equipment that may be used in the tender specifications? You're nodding your head yes?---I, I recall at various times and I can't be more specific than that that we had a number of discussions on the availability of Lenel - of Pelco Endura 2 and its availability. Mr Paul on at least one occasion told me that Lenel - that Pelco are fairly slow in releasing product onto the market because they had a very good research and development arm that wouldn't release products onto the market unless they were absolutely sure that it, it met the needs and was fault proof and that's one of the reasons why there was such a long delay in trying to get some answer from Mr Paul as to whether it was available or not.

THE COMMISSIONER: From Mr Paul?---Yes, at least Mr Paul because we would ask him, well I would certainly asked him or he had volunteered it

to me that we still don't know whether it's been released, we still don't know whether it's been released.

And at what stage was this being said? Is that, is that - - -?---Certainly before the tender documents went out to the prospective tenderers.

MS LONERGAN: And when you say we you mean by that you asking Mr Paul to find out for you - - -?---Yes.

- - - what was happening?---Correct.

10

You didn't have any interface yourself directly with Pelco to check that information at that time did you?---No.

All right. Now if you can just assist me with why it is that a Pelco factory tour that's mentioned on page 2 of this letter would be of assistance or relevance to you if Pelco was not going to be the system that was going to be implemented or, or benchmarked for the tender?---I can only make a guess. The - my, my most reasonable assumption is that there might have been some hope that Endura 2 was going to be available and therefore it made good sense to look at the system while we're over there.

20

And are you able to say now whether - I withdraw that. Did you raise this letter that you received from Mr Paul regarding attending the ICS conference with your superiors?---Yes, I did.

And was it within a short space of time after receiving it?---Yes.

And did you have an opinion as to whether it was appropriate for Mr Paul to sponsor or partly sponsor your attendance?---I didn't have an opinion at the time, I, I took on face value and presented it to my, to my manager.

30

Who was that?---Ann Flanagan.

What did she say?---I think her initial response was well that's - we'll, we'll consider it but it didn't take very long as I recall after that for her to rescind that and say that if - if I was going to go they would fund us (not transcribable)

Mr Paul. Did Mr Paul tell you that he was going to propose that - first of all - I withdraw that. Did Mr Paul tell you he was going to attend the same ICS conference?---Yes.

40

And did he tell you that you would be part of a group that would attend the conference together?---Yes.

Did he tell you who else was going to be in the group, at about this time or at least the 14 January 2009? I'm not trying to trick you obviously?---No, I, I can't recall.

All right. Did he tell you that he was going to ask Kings to pay for his travel and expenses to attend the ICS conference?---No.

Did he tell you that he was going to invite Kings to pay for your travel and expenses - - -?---No.

10 - - - at the ICS conference? You've been in court when evidence has been given about that and some emails have been shown. What's your opinion as to the appropriateness of those requests?---Highly inappropriate.

Commissioner, I have a matter I need to raise with you, so those are my questions for today. I would be another 40 minutes I estimate with Mr Morris.

THE COMMISSIONER: Sorry. What, what are you asking for?

20 MS LONERGAN: Those are my questions for today and if I could continue tomorrow at 10 o'clock.

THE COMMISSIONER: Yes. Very well. We'll adjourn until tomorrow.

MR STRICKLAND: Sorry, Mr Commissioner, I'm sorry. Could I, could I just have a word with you for, for one or two minutes if that's okay?

THE COMMISSIONER: Yes, very well.

30 MR STRICKLAND: Before we adjourn for today.

SHORT ADJOURNMENT **[3.56pm]**

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Yes, Mr Commissioner, I just wish to recall Mr Daniel Paul in relation to an answer he gave earlier today.

40 THE COMMISSIONER: Yes, you may leave the witness box, Mr Morris, if you wouldn't mind being here at 10 o'clock tomorrow morning. Thank you.

THE WITNESS WITHDREW **[3.56pm]**

THE COMMISSIONER: Mr Paul, you're still under your oath, the section 38 order still applies to you. Mr Strickland.

MR STRICKLAND: Could the witness please be given Exhibit 109. I just want to ask you a couple of questions about an answer, a couple of answers you gave in relation to this document, in particular I want to focus on the years 2008 and 2009. You've got no doubt that the information you provided in this spreadsheet is accurate is that right?---As accurate as I, I recall it to be, yeah, I think I made a mistake with that, that entry on the
10 2008 Art Gallery one, yes.

Well, putting that aside you're confident that it's an accurate record, is that right?---Yeah, yes.

And I think you said today that you were asked where did you get the details from for each of these charts and you said again from my records on my computer system, my invoicing, et cetera?---That's right.

So you've obviously to try and ensure you've given your counsel and the
20 Commission as accurate information as possible, you've gone to your computer system and, and your invoicing is that right, to find these records? ---To try to work out what projects were on at the time, yeah.

Right. And so, so in your computer system what's the information you've got in relation to these records?---It depends on which, which particular records but there's various different sources that I go to to have a look and see what the project was.

Well, I'm just, I want to ask you about 2008?---Yeah.
30

What, what records in your computer system did you - what records in your computer system do you have for 2008 for example?---It depends on which client. Which client are you talking about?

You've got different records for different - - -?---Of course, I do different work for different clients, yeah.

Okay. So well, say, well, do you have - - -

40 THE COMMISSIONER: Well, on the one - sorry, Mr Strickland. On the one computer I take it you've got all the records - - -?---Oh - - -

For, from which you derived what appears in Exhibit 109?---Ultimately, yes, yes, I think so, yes.

MR STRICKLAND: All right. And so, so in your computer you, for each individual client you've got like a file, is that correct?---I have a folder, yes.

A folder?---Yes.

So just, just take Lend Lease for example, which is in 2008, you've got a folder for Lend Lease, is that right?---It won't be, it won't be nailed down to 2008, it will be a Lend Lease folder - - -

10 Okay?--- - - - which then envelops all of the various different works that I do for Lend Lease, yeah, likewise Westfield, there's one, one Westfield folder that just is very big, it has lots of other subfolders under it from different years et cetera.

THE COMMISSIONER: What, like invoices?---No, the invoicing is in a different, a different section.

MR STRICKLAND: A different section of your computer?---Yes.

And what, what would that be under?---Invoicing.

20 There's a separate, you've got an icon saying invoicing or a section of - - -?
---Oh, a section within my computer for invoicing.

For invoicing, right. And that would contain the invoices for 2008 for Lend Lease for example?---Yeah.

30 Okay. And so just, if I can just take the Lend Lease folder, just as an example, what kind of documents have you got in the Lend Lease folder? You've got your own, I mean, what do you save in there, contracts and what other documents?---Well, there's, there, there'd be very little in the way of contracts because they usually have you sign those, they're usually hard copy, I don't keep soft copies.

Right?---But it'll be their specifications, it'll be potentially some evaluation stuff that's in there, tables and, and the like.

All right?---Take off sheets that I do when I walk around a site and look at what they need.

40 THE COMMISSIONER: So you'll have all the relevant communications between you and Lend Lease?---No, no, the communications, it's not there, that's in my email or if, if its, if it's in part of my email, some of it's there, some of its not.

The emails are on the computer is it?---No, not necessarily, it's - - -

Why not? What's it on?---On a different computer.

Do you have that?---No, I don't have it handy, no.

Why don't you have that, Mr - - -?---I beg your pardon?

Why don't you have that?

MR STRICKLAND: He says he doesn't have it handy, Mr Commissioner.

THE COMMISSIONER: You don't have it handy?---No, I don't have it here, no.

10 No. Yes, all right.

MR STRICKLAND: But if you needed to look at emails for Lend Lease for example, do you, do you have that, you have that in another computer do you?---Oh, it depends on what year and when. My, I've changed computers half a dozen times over the last few years so - - -

THE COMMISSIONER: Just ask for the order, Mr Strickland.

MR STRICKLAND: Yes, I ask for an order under section 35(2) of the
20 ICAC Act, I beg your pardon, yes, section 35(2) for all records on Mr Paul's computers - - -

THE COMMISSIONER: Well, we want his computer.

MR STRICKLAND: I beg your pardon?

THE COMMISSIONER: I want Mr Paul's computer.

MR STRICKLAND: Well, there's more than one.
30

THE COMMISSIONER: I want every computer that Mr Paul has relating to his business I want here tomorrow morning?---I have classified information on my computers.

You will, my order, I'm telling you now, that the order I want is an order for you to produce all, tomorrow morning, certainly before 10 o'clock, all computers that you have in your possession relating to your business? ---When will I get it back?

40 When we're finished with it?---I can't give it to you, I'd need to seek permission from, from Defence.

Well, you can exclude from that all matters relating to Defence?---And, and other classified documents?

No. What other classified documents?---Other clients.

No. We want the computers please and there will be an order in those terms, you are to produce by 10 o'clock tomorrow morning all computers in your possession relating to your, to your businesses, you may delete from that all matters relating to Defence but nothing else and that will be the order and I can tell you that if it's not complied with I will take further action?---There are other classified clients that I have.

10 **AN ORDER IN THOSE TERMS YOU ARE TO PRODUCE BY 10
O'CLOCK TOMORROW MORNING ALL COMPUTERS IN YOUR
POSSESSION RELATING TO YOUR, TO YOUR BUSINESSES,
YOU MAY DELETE FROM THAT ALL MATTERS RELATING TO
DEFENCE BUT NOTHING ELSE AND THAT WILL BE THE
ORDER AND I CAN TELL YOU THAT IF IT'S NOT COMPLIED
WITH I WILL TAKE FURTHER ACTION**

20 THE COMMISSIONER: The Commission - Mr Lloyd, do you want to say anything?

THE WITNESS: I have other classified clients.

THE COMMISSIONER: I am prepared to give you an adjournment and you can talk to Mr Paul and you can make whatever submissions you want if you wish.

MR LLOYD: Thank you, Commissioner.

30 **SHORT ADJOURNMENT** **[4.03pm]**

THE COMMISSIONER: Mr Lloyd.

MR LLOYD: Commissioner, I've taken further instructions from my client and my client does work for at least five federal government departments.

They can be excluded.

40 I've listed for the record I'm going to seek a suppression order.

THE COMMISSIONER: Yes.

MR LLOYD: If you want to hear them.

THE COMMISSIONER: No. You give, you give Counsel Assisting a list of the five federal departments. I will accept that as material to be excluded.

MR LLOYD: Thank you. The only other thing is this, Commissioner, obviously my client runs a business on an ongoing basis.

THE COMMISSIONER: He can have his material for 2012. That can be excluded.

MR LLOYD: Commissioner, could I ask this, and this is really a matter for the technicians, could they - - -

10 THE COMMISSIONER: We will do our best to do it as soon as possible.

MR LLOYD: - - - copy the hard discs and give the material back.

THE COMMISSIONER: I don't know whether that can be done, but we will do our best.

MR LLOYD: Thank you, Commissioner.

20 THE COMMISSIONER: And there will be an order requiring Mr Paul to produce his computers before 10.00am tomorrow morning. The only material to be deleted from them are the five federal government – material relating to five federal government departments, the names to be provided by Mr Lloyd to Counsel Assisting. Is there anything else that you want excluded? I haven't excluded the 2012, because that will depend upon whether we can copy the hard disc. And if we can do that by tomorrow you can have it back by tomorrow afternoon, if that, if that is feasible. Of course, the earlier he brings it in, the quicker he'll get it back.

30 MR LLOYD: Understand entirely.

THE COMMISSIONER: But we will do our best to cooperate with that.

MR LLOYD: Thank you, Commissioner.

MR STRICKLAND: Commissioner, just in terms of the precise order, in terms of the – I have no issue with the five federal government departments - - -

40 THE COMMISSIONER: Yes.

MR STRICKLAND: - - - but it may be – I don't know, there may be a technical issue with deleting it. Perhaps a better order would be - - -

THE COMMISSIONER: Yes, no, I'm just suggesting that Mr Paul delete it, but if he – what we can do Mr Lloyd is give you an undertaking that we will not look at it. That will be an undertaking by the Commission not to look at any of the material relating to the five government departments if, if Mr Paul is unable to delete them effectively.

MR LLOYD: Understand. I'm hear where you're going.

THE COMMISSIONER: Yes.

MR STRICKLAND: That's it.

THE COMMISSIONER: Yes. The Commission will now adjourn until 2.00pm.

10

**AT 4.10pm THE MATTER WAS ADJOURNED ACCORDINGLY
[4.10PM]**