

TILGAPUB01352
07/08/2012

TILGA
pp 01352-01393

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

Reference: Operation E09/350

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 7 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.

MR LLOYD: You were taken to the last page of this which is numbered 525?---Yes.

And you'll see in the penultimate paragraph on that page where there's summary?---Yes.

10 And the second last line of that where there was a price bid of 1.803 million said to be within the, the budget?---Yes.

Just in the first line under summary the tender panel concluded that Kings Security Group was the preferred tenderer. Now we know from other evidence which is not really disputed that the phrase preferred tenderer wasn't used until after the meeting on 27 February?---Yes.

20 So is it fair to say whenever this page was prepared it must have been after that date?---It's a reasonable assumption, yes.

And going back to the first page of the series they appear to be minutes of a meeting held on 10 February where you were an ex officio member?---Yes.

So at that meeting whatever's on this last page could not have been discussed as a matter of logic?---The question again, I'm sorry.

Okay. Perhaps I'm moving a bit too quickly.

30 THE COMMISSIONER: No, I think - just put it again. I think it follows, Mr Lloyd.

MR LLOYD: I've taken you to the last page where we see reference to the tender panel concluding Kings was the preferred tenderer. Are you with me?---Yes.

And a price bid of 1.803 million?---Yes.

40 Okay. Now, firstly I think you said this morning you had never heard of such a bid?---No, I hadn't.

So if you had been in a meeting and you'd read this page you would have corrected it and say hang on now, there's no such bid?---Well, I can only assume that I didn't read that part of the report.

THE COMMISSIONER: Mr Lloyd, this is really a matter for argument I think. I mean, what Mr Morris thinks at meetings and so on is not really to the point. It actually all depends, I think it all depends on when it was written.

MR LLOYD: Indeed. If that could be returned, Mr Morris. You were taken to an exhibit which was 117, which was an email from yourself to Tony Grubisic - - -?---Yes.

- - - before midday on 2 March?---Yes.

10 And you appear to copy an email you'd sent him a bit earlier because there was some problem with your offices email system?---It would appear so, yes.

Now what I want to take you to is the copy, the email to Tony Grubisic, which commences on the – halfway down the first page of this series? ---Yes.

Now at the same time I want you to be shown Exhibit, Exhibit 17, F11? ---Yes.

20 And you weren't taken to this, but I'm taking you to the document F11, the first page, top right hand corner it says 55. Are you with me?---Yes.

Looking at Anne Tregagle's email to you which is on the lower half of the first page, it's from her to you just before 7.00pm on 27 February?---Yes.

“Hi, Tony”. And it's copied to Anne Flanagan and Daniel Paul. “On the expectation that Dan will establish” and it goes on talking about price, “here are some words to consider in your emails to both companies to inform them that they have dual preferred tenderer statements”?---Yes.

30 Okay. And then she gives you some a paragraph to put in an email to both and then separate wording to go to Kings and it goes over the page and then to ACG?---Yes.

And if you got to the top of this first page you see that my client Daniel Paul has had some input.

THE COMMISSIONER: On the top of page 55?

40 MR LLOYD: On page 55 at the top. He's sent an email obviously after considering Anne Tregagle's direction to you?---Yes.

And he said, “Tony, could you please also include the following questions for them to answer”? Okay?---Yes.

Now I just want you to have a look at what you did send to Tony Grubisic. And get you to confirm that it's a combination, an exact combination of your instruction from Anne Tregagle with the addition of something that Dan Paul was throwing into the mix?---That's correct.

And you'll send it off?---Yes.

And I want to suggest that the next thing that occurred, well whilst I'm there I just want to take you to one aspect of firstly Kings, what you said to Kings because we, we don't have that. We may have somewhere. The top of page 56. And there are requests in short that tender schedules be resubmitted with new prices?---On what part of that document, Mr Lloyd?

10 The very top. 1 and 2 of the top of page 56?---I see. Yes.

Are you with me?---Yes.

Item 3 at the top of page 56 is the question about the percentage of the company's annual security electronics turnover which, which Anne Tregeagle does not add in her part to ACG. Because if you just go down page 56 you'll see what she's asked you to send to ACG.

20 THE COMMISSIONER: I'm sorry, Mr Lloyd, I'm, I'm lost, it's my fault. Do you mind just showing me where you – going through that again, please?

MR LLOYD: Okay. Certainly, Commissioner, because it's important, given the emphasis they've been giving to it during the hearing. Let's start with the basics. You've had a meeting, a short meeting, and you've told us this morning you couldn't really remember what was said?---Mmm.

After the interviews on the 27th. Okay?---Yes.

30 And then I want to suggest to you that it was after that that Anne Tregeagle came up with this concept of preferred tenderer?---That's possible.

And then she clearly has sent you an email in effect saying, ask both companies what I'm putting here at the bottom of page 1 under the heading, Both. Are you with me?---Yes, I am.

THE COMMISSIONER: Under the, yes.

40 MR LLOYD: And then for a reason we may never know, but obviously best known to her, because she drafted the email, she said, ask Kings as well what appears on the last three lines of the first page, going over on for about the first 10 lines of the second page. Okay?---Yes.

And that includes, that, that, that draft of an email to go to Kings, she's directing you to include at the top of page 2, items 1 and 2 that we see there which ask about resubmitted tender schedules?---Yes.

Now, in short, they're price schedules. Okay?---Yes.

And item 3 is this question about annual turnover?---Yes.

Now, she doesn't ask you in here to ask that question of ACG because the part she wants you to ask ACG is lower down the page?---Yes.

But she does ask you for ACG to ask the first question, "As dual preferred tenderer, we request that you provide alternative costs for a Lenel/Pelco system, you'll need to resubmit the tender schedules"?---Yes.

10

Obviously the prices?---Yes.

We've seen the one you've sent to Grubisic, it goes out on 2 March, that's Exhibit 117. You've added in Dan Paul's input, and I take it at the time you did what you were told?---Yes.

And you didn't pick up that Anne Tregeagle hadn't asked you to ask of ACG that third question at the top of page 56 about turnover?

20 THE COMMISSIONER: So you didn't pick up, you did not pick up?

MR LLOYD: You didn't pick it up.

THE COMMISSIONER: You didn't pick it up where?

MR LLOYD: Well, at the time you wrote your emails. I mean did you, did you wonder why she was- - -

THE COMMISSIONER: Well, it all depends- - -

30

MR LLOYD: - - -asking different questions of the two preferred tenderers? ---No, I didn't.

THE COMMISSIONER: Sorry, Mr Lloyd, I just don't understand what you mean by pick it up. I mean are you saying that he sent an email without putting it in or, or he didn't understand it or, or I'm not sure what, what you - - -

40 MR LLOYD: Mr Morris, did you give this much independent thought or did you just send what you were told to send?---I can't recall at the time, but that was a draft email, I believe I copied the draft and paginated it and corrected it in terms of spelling and whatever and sent it off.

Sent it off. Fine. Didn't give it much independent though?---I can't recall, no.

Okay. And I want to suggest to you that you've seen now what you did sent to Tony Morris, and I won't take you over that, it's self-explanatory.

THE COMMISSIONER: To Tony Grubisic, to Tony Grubisic.

MR LLOYD: Sorry, Tony Grubisic. And I want to show you of Exhibit 17, F12?---Yes.

10 And what he's done on the second page, that is page 63 of this exhibit, that's tender revision 2, and the third page 64, on 3 March he's written to you which must have been in response to your email and he's annexed, it would appear, the various reviewed pricing schedules that you'd requested?
---Yes.

Okay. Is that fair?---Yes.

Well, it would be logical wouldn't it, you've made the request and you'd expect him to answer - - -?---Correct.

20 - - - if he wants to stay in the process. And you've already been taken to the bottom of page 3, sorry the bottom of the page 64, that is his letter to you of 3 March, that part where he states that Endura 2 is not yet available until April '09. Okay?---Yes.

I've shown you the email or Counsel Assisting has, that Daniel Paul sent on 3 March copied to you, no, sent to you and Mr Yallouris of Pelco requesting a meeting on the morning of 5 March and you said the aim of that meeting was to check out availability - - -?---Yes.

- - - and see it work, see the product work?---Yes.

30 Fair? I'm just trying to get the chronology right?---Yeah. Mainly to make sure it was available.

Okay. I'm with you. And you had some uncertainty this morning about the time of the meeting but looking at Exhibit 24, that email from Dan Paul to you - - -

THE COMMISSIONER: Exhibit 24?

40 MR LLOYD: Exhibit 24.

THE COMMISSIONER: What is the question, Mr Lloyd?

MR LLOYD: The question, the question's this, refreshing your memory from that are you able to say that the meeting you had to check availability must have been that meeting on the morning of 5 March?---No, I don't recall it as that, I, I have a recollection that we met soon after, met Mr Yallouris either the day after or the second day after the first interview process.

Well, you have that recollection but do you have any document that can confirm that was the day of the meeting? A diary note?---Could I refer to my, my notes please?

Do you have a diary?---I, I have a, I have copies of diary and electronic diary entries that I've, I've sourced over the last year or so trying to establish a chronology, yes.

10 What, you've accessed documents?---Off my computer, yes, my electronic diary.

Well, I have no problem if the Commissioner will allow you.

THE COMMISSIONER: Yes?---My, my electronic diary shows an entry, it's a very innocuous diary entry, it says meeting with Pelco on Thursday, 5 March, I beg your pardon, 5 March, 2009 at 9.30am till 11.30am.

20 MR LLOYD: That's the meeting referred to in the email?---That is, it is.

So we're all on the same page?---That would appear to be so.

Fine, you can – don't hesitate to refer to your notes if you need to that's said to confirm what I put to you. I then want to suggest to you, and we do have notes here, Ms Tregeagle's notes of the meeting on the 5th with ACG, they are part of Exhibit 17, F13?---What number again, sir?

F13, 17, tab 13?---Yep.

30 Now these are Ms Tregeagle's notes?---They appear to be, yes.

I want to take you to the ones for ACG, it's page 146 in the top right hand corner. Okay?---Yes.

There's several items, (1) Pelco doesn't include off site band widths, (2) there's a licence fee mentioned, (3) prefers Pelco, not clear if megapixel cameras will work fully, Verint will be Pelco is best company and then (3) proposed Andover with various things 1.9 to 2 million any mix of products. Okay?---Yes.

40 And looking at that I want to suggest to you it was your clear recollection that Tony Grubisic at the meeting on the 5th was foregoing a Lenel/Pelco mix, he was suggesting Andover?---Those, those notes suggest it was, yes.

Thank you. For the price of 1.9 to 2 million?---Yes.

And I want to just take you to the tender evaluation report prepared by Dan Paul, it's at tab 8 of that same exhibit, I hope. Is that, is that a tender evaluation report?

THE COMMISSIONER: That's the summary, it's the summary.

MR LLOYD: Oh, Exhibit 2.

THE COMMISSIONER: Dr Hickey appears to have his hands full.

10

MR LLOYD: Dr Hickey, is the king, to excuse the pun, of documents. And his learned leader is a fool.

THE COMMISSIONER: Do we now go to the exhibit? Exhibit which?

MR LLOYD: Exhibit 2, tab 8.

THE COMMISSIONER: Right.

20

MR LLOYD: I just want to take you to page 155 in that series, numbered in the top right hand corner?---Yes.

Of course you were taken to this by Counsel Assisting. The last two items on page 155 at paragraphs 11 and 12, ACG presented two alternative solutions at the final presentation. Offering alternative to the Lenel product in the Andover product. Panel received the new submission and adjudicated and at 12 ACG offered another price structure based on the revised offer and mixed with the alternative offers with the revised price of between 1.9 and 2 million. Do you see that?---Yes.

30

It mirrors what Ms Tregeagle has put in her notes?---It appears to, yes.

Thank you. And then finally you were taken to Exhibit 118 which is an email from Tony Grubisic to you in late March?---Yes.

40

Or as somebody used the expression this morning he was whinging, "Hi Tony," forget the first line, "We would also like to discuss the following, AG specified a specific set of product then gave ACG 29 hours to respond to an alternative solution. How does Pelco solution comply with the tender?" Now, as I understand it, and this is a little ambiguous, the alternative solution being proposed by the Art Gallery where they wanted a pricing was the Lenel/Pelco solution?---Yes.

Thank you. You said in your evidence, and I'll put this to you, you, you, the tender committee was unanimous in selecting Kings. Correct?---Yes.

And you said one of the reasons, apart from price, and I've got a rough note of your evidence this morning, was a, Kings had demonstrated a very eager

approach to the job, they were very eager, can't read my writing, anyway, they were very eager to get the job?---That was my recollection, yes.

And I wanted to show you one email to confirm perhaps the, the eagerness of Kings. This is in the, that little additional bundle.

THE COMMISSIONER: Can we not actually take it as given that they were very eager? I mean do you really have to put in another document?

10 MR LLOYD: I don't. I'll get you refresh your memory from a document.

THE COMMISSIONER: I mean I think if there is one fact that's overwhelming in this inquiry is that Kings were- - -

MR LLOYD: Eager.

THE COMMISSIONER: - - -very eager to get the job.

20 MR LLOYD: I mean it's a self-explanatory email dated 17 February where Peter Roche of Kings is advising you that Kings will be in attendance this Wednesday for the security site survey. It's the last paragraph I want to take you to. "And finally may I extend an apology on behalf of Kings for an over-zealous Charlie in arriving at the Gallery unannounced yesterday. He has been treated." I take it that last sentence is a joke?---I can't, I can't now remember receiving the email, but I, clearly I must have.

THE COMMISSIONER: Mr Lloyd, without any disrespect, I'm going to stop you on this.

30 MR LLOYD: I'll move on. You're still employed at the Art Gallery?
---Yes, I am.

And is Anne Flanagan still your boss?---She is.

Is Ms Tregeagle still employed there?

THE COMMISSIONER: Mr Lloyd, Ms Tregeagle will come to give evidence. Can we move on?

40 MR LLOYD: The invitation to you initially proffered by Daniel Paul to have you attend the security conference in Las Vegas, that was tab 3 of Exhibit 17?---Yes.

I just want to jog your memory on one part of that. On the second page, on 303, in the middle of the page is a statement in conjunction with the trip to Las Vegas I've arranged a fully conducted a tour of the Pelco factory in Clovis, California following the exhibition in Las Vegas?---Yes.

This component is sponsored by Pelco?---Yes.

So it was clear from the time the invitation was first extended that you were going to be going to the Pelco factory if you accepted the invitation?---Yes.

Thank you. I just want to take you to the strategy for tender document, that's Exhibit 2, tab 5, I'm sorry, Exhibit 17, tab 5?---Yes.

The third page into that series is 458 at the top?---Yes.

10

There's reference, I suppose I should pick it up at the bottom of the previous page, 457, to nominate the recommended products, this is at the bottom of 457. We would suggest that the following would be shortlisted for consideration and we see there have been CCTV companies and then security and access control companies listed as stated?---Yes.

And they were systems, they were CCTV systems, is that fair?---CCTV systems and access control systems, yes.

20

Thank you. Now, right in the middle of the page both the security manager, that's you - - -?---Yes.

- - - and the consultant visited a number of local and interstate facilities to review and assess the operational aspects of some of these systems?---Yes.

A fair statement?---It's a fair statement, yes.

You went to Victoria?---Yes.

30

You went to Canberra to the National Gallery?---Yes.

And you went to multiple places in New South Wales, that is within the Sydney metropolitan area to see things operating?---To see certain products operating, yes, not necessarily CCTV or access control.

Okay. The second sentence, Likewise we visited and met with manufacturers, wholesalers and resellers to review and assess demonstrations of many of the products, many of which were integrated with others forming complex solutions. That all took place?---I wouldn't say in relation to that particular sentence, I don't think we visited that many manufacturers or wholesalers but we would have, yes.

40

Well, he doesn't put a number of it.

THE COMMISSIONER: I'm not sure what you're saying, are you saying yes or no?---Yes, yes.

MR LLOYD: Thank you. Well, this document was sent to you?---Yes.

Let's look at the first page?---Yeah.

It's addressed to the Art Gallery to your attention copied to Anne Tregeagle?---Yes.

And then "Dear Tony and Anne". I assume you read it?---I did.

If anything was wrong you would have corrected it.

10

THE COMMISSIONER: He said yes, Mr Lloyd.

MR LLOYD: Okay.

Now, broadly what was occurring as I understand it was to select benchmark products and not discouraging alternative solutions.

THE COMMISSIONER: At what stage?

20 MR LLOYD: That's at this stage, that was the strategy of the, of the tender?---Yes.

And for the aspect dealing with security and access control as I understand it the benchmark was to be Lenel?---Yes.

But for the CCTV systems the benchmark it was to be Verint?---Yes.

And you agreed with that?---Yes.

30 And Daniel Paul, who drafted this has written in relation to CCTV, and I'm happy to take you to it, it's on page 464 about a third of the way down? ---Yes.

CCTV Pelco - - -

THE COMMISSIONER: I think I took him to it. Mr Morris has been taken to it.

MR LLOYD: Already, okay.

40

THE COMMISSIONER: You have haven't you?---Yes.

MR LLOYD: But the part I want to take you to is one part that the Commissioner didn't take you to is right in the middle of his statement about Pelco he says, "Pelco are sometimes slow to release the latest technology". Now you said something in your oral evidence this morning almost on all (not transcribable) with that - - -?---Correct.

- - - that he said to you Pelco are slow in releasing their product - - -

THE COMMISSIONER: Sorry, I didn't hear your question. Who said to Mr Morris? Who said to Mr Morris? You said somebody said to you, Mr Lloyd, I'm trying to understand your question.

MR LLOYD: I understand. I'll take you to the, to the transcript, Commissioner. It was yesterday I'm sorry, it was near the close of play yesterday. It appears at 1292 of the transcript. I'll take you to the question at line, about line 34 and you don't have this, but I'm happy if you're given a copy?---No.

No. But I'll read it to you. I hope I read it fairly. "Did your conversation 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"? Okay. So it's before the specs have gone out. You're nodding your head, yes?---Yes, yes.

Your answer is this, "I recall at various times, and I can't be more specific than that we had a number of discussions on the availability of Lenel, Pelco Endura 2 and it's availability. Mr Paul on at least one occasion told me that Lenel, that Pelco are fairly slow in releasing product on to the market because they had a very good research and development arm but wouldn't release products on to the market unless they were absolutely sure that it met the need and was fault proof"?---That's right.

I recorded that as bullet proof, but I don't think it makes much different?---I think I said, I can't, I think I said fault proof, but - - -

Okay. I may well have misheard you. It's more or less the same as his, as his critique here of Pelco?---Yes.

And then in relation to Lenel he, and this is CCTV, over on the next page of the strategy document at 465 in the middle of the page he goes to Lenel CCTV, not access control, but CCTV?---Mmm.

They're relatively new to the suite of software's released by Lenel. It's for the reason SCI has along with the management of the Art Gallery determined that Lenel CCTV should be considered if offered but not specify that as the preferred solution in relation to primary CCTV. Fair?---I see that.

THE COMMISSIONER: He was taken to it yesterday and - - -

MR LLOYD: And you agreed with that?

THE COMMISSIONER: Well he agreed that that's what he was told by Mr Paul?---Yeah.

MR LLOYD: Well you had - - -

THE COMMISSIONER: Well it's in the letter.

MR LLOYD: I understand. But it says here, I'll take you back to it.

THE COMMISSIONER: I'm not sure what point you're making Mr Lloyd.

10 MR LLOYD: I'm about to make it, Commissioner. SCI along with the management of the Art Gallery. Do you see that?---At what page?

Page 465, that paragraph I've just taken you to about Lenel?---Yes.

That's you?---Well, yes.

You're part of the management?---I am.

20 You didn't send him a letter on receiving this saying I don't agree with, with your recommendations?---No.

I have nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Lloyd. Does anyone other than Mr O'Mahoney wish to question Mr Morris? You have the floor, Mr O'Mahoney.

MR O'MAHONEY: Thank you, Mr Commissioner. I only have a few questions.

30 THE COMMISSIONER: Yes, proceed.

MR O'MAHONEY: And they relate only to one document. Mr Morris, you were asked earlier this morning, you might remember, some questions about attending a concert, a Simon and Garfunkel concert?---Yes.

And I think your evidence was that you paid Mr Paul what you thought was the full price for those tickets?---That's right.

40 Could I show you a document, and I've shown a copy to my friends?---Yes.

And you'll see, Mr Morris, that's a transaction summary from your personal bank account?---It is.

Credit union account. You'll see there's a highlighted entry on that page next to the date, 23 February, 2009. Could you just explain what that entry refers to?---That entry is the, the amount of money that I repaid Daniel Paul for supplying me two tickets to the Simon and Garfunkel concert.

And your understanding at the time was that was the full price of the tickets?---Yes, I was.

No further questions.

THE COMMISSIONER: Yes, thank you.

MR O'MAHONEY: Mr Commissioner, I seek to tender that document if I could.

10

THE COMMISSIONER: I don't think there will be a challenge to that evidence.

MR O'MAHONEY: Understood.

MS LONERGAN: That was my petition, Commissioner.

THE COMMISSIONER: Do you have any questions, Ms Lonergan?

20

MS LONERGAN: No, Commissioner.

THE COMMISSIONER: No. Thank you, Mr Morris, you are excused?
---Thank you.

THE WITNESS EXCUSED

[2.52pm]

30

THE COMMISSIONER: Mr Strickland?

MR STRICKLAND: I call Mr Stokes.

MR O'MAHONEY: Mr Commissioner?

THE COMMISSIONER: Yes, Mr O'Mahoney.

40

MR O'MAHONEY: Apologies, Mr Commissioner. Before the next witness commences could I just ask for one order, and it's in respect of Exhibit 122. In that exhibit my client's home address is referred to and I just- - -

THE COMMISSIONER: Yes. Mr Morris's home address will be suppressed as requested.

MR MORRIS'S HOME ADDRESS WILL BE SUPPRESSED AS REQUESTED.

MR O'MAHONEY: Thank you, Mr Commissioner.

THE COMMISSIONER: Mr Griffin?

MR GRIFFIN: Yes. I appear on behalf of Mr Stokes and Q- - -

THE COMMISSIONER: I beg your pardon? Sorry, I didn't hear.

10 MR GRIFFIN: I appear on behalf of Mr Stokes and also on behalf of the Q
Group and- - -

THE COMMISSIONER: No, you're not, I don't allow that. You can
choose which one.

MR GRIFFIN: Well, I certainly appear on behalf of Mr Stokes.

THE COMMISSIONER: Well, then you don't appear on behalf of, there is
a conflict of interest in these matters and- - -

20 MR GRIFFIN: Well- - -

THE COMMISSIONER: - - -I apply a strict rule, Mr Griffin.

MR GRIFFIN: I hear what you're saying, Commission, but it has been
discussed by the board of directors.

THE COMMISSIONER: I don't care if it's been discussed with Her
Majesty, I don't allow it.

30 MR GRIFFIN: Well, can I submit, can I appear on behalf of Mr Stokes?

THE COMMISSIONER: Yes, certainly.

MR GRIFFIN: I'm instructed by Minter Ellison.

THE COMMISSIONER: Yes.

MR GRIFFIN: And can I seek- - -

40 THE COMMISSIONER: And do Minter Ellison act on behalf of Q Videos?

MR GRIFFIN: Well, they have been in the past (not transcribable)

THE COMMISSIONER: There are a number of Q Video employees who
are of interest in this inquiry. The prospect of a conflict should be obvious.

MR GRIFFIN: Would- - -

THE COMMISSIONER: I'm quite happy, of course Mr Stokes is entitled to representation and it's leave that you seek first and this has happened previously in compulsory examinations and in those instances because of the exigencies of the matter I have allowed counsel to appear and I have required the solicitor concerned to leave the room because at that stage there are matters of confidentiality thought they don't apply in the public inquiry but I've required undertakings not to discuss the matter with others. Different consideration is applied here but I am concerned with the notion that your solicitors are appearing for the company. The company, normally
10 - for the reasons I have explained I can see that there is a strong likelihood of a conflict of interest. Now, I don't want to waste any time and I don't want to waste anybody's expenses but I will allow Minter Ellison to remain on as your instructing solicitor on the basis that they undertake no longer to act on behalf of Q Videos in this inquiry.

MR GRIFFIN: Understood, Commissioner.

THE COMMISSIONER: Do you need time to discuss that or are you able to take a decision now?
20

MR GRIFFIN: Yes, I'm instructed we can proceed on that basis.

THE COMMISSIONER: And I take it your instructing solicitors are not appearing for any of the other employees at Q Video?

MR GRIFFIN: Certainly not, Commissioner, no.

THE COMMISSIONER: Yes, very well. You have leave and so is your instructing solicitor. Now do you wish me to make a section 38 order?
30

MR GRIFFIN: Thank you, Commissioner.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Stokes and all documents produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document produced.
40

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR STOKES AND ALL DOCUMENTS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE

**OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER
GIVEN OR DOCUMENT PRODUCED.**

THE COMMISSIONER: Mr Griffin, have you explained to Mr Stokes what the effect of that order is?

MR GRIFFIN: I have, Commissioner.

10 THE COMMISSIONER: Yes, thank you.

Mr Stokes, as Mr Griffin was explained to you, that order means that the evidence you give today cannot be used against you in any criminal or civil proceedings but there is one exception and that is should you not tell the truth. I'm not suggesting that you won't tell the truth, it's something I tell all witnesses who sit there as a matter of routine but the penalty for giving false evidence at a compulsory examination can be a gaol term of up to five years. And as I say, I make no implication in saying that as I say that to every witness as a matter of routine so you can understand the seriousness
20 of the occasion. Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR STOKES: Under oath.

THE COMMISSIONER: Would you swear Mr Stokes in please.

THE COMMISSIONER: Mr Strickland, are you or Ms Lonergan, who is leading this witness?

MR STRICKLAND: I am, thank you.

10 What's your full name?---Richard James Stokes.

And you reside in Melbourne?---I do, indeed.

You're the CEO of QRSciences Holdings, is that correct?---It's Q Technology Group Holdings, we changed the name about a year and a half ago.

You have to, your voice is dropping?---Yeah, we changed the name November 2010 to Q Technology Group.

20 There are various subsidiary companies, is that correct?---Various, yes, there is.

And you're the CEO of all those subsidiary companies?---I'm the sole director of all those companies, yes.

30 There's been a company referred to Q Video Security. Is that, is that the name of a company that's still in existence?---Q Video Systems is a trading name, it's a business name, a subsidiary of QRSciences Security Pty Limited.

So the actual company that supplied the Art Gallery the product in relation to the Art Gallery contract, what company is that?---It was QRSciences Security Pty Limited trading as Q Video Systems.

Which has now changed its name to - - -?---No, no, that's, that's the trading entity. The head, the holding company has changed its name from - - -

40 Thank you. So I'll just go by the trading name which is Q Video Systems? ---Yep, Systems, yeah.

Okay. And you were the CEO of that company at the time of the Art Gallery contract?---That's correct.

Now at that time the head office of Q Video Systems was in Melbourne. Is that right?---That's right.

But there were various state offices?---Yes, in Victoria, New South Wales, Queensland and WA.

Did each of those state offices have some significant degree of autonomy back then?---Yes, they did.

Who was the manager or the general manager of the New South Wales company, I'm sorry, of the New South Wales branch of the company in 2008/2009?---Paul Thompson.

10 Did he report to you?---Before June 2009 or July 1, 2009 there was a, there was a dual reporting to myself and a general manager who was also located in Melbourne.

And what about July 2009?---He reported to me.

Okay. I'm sorry, who was the other manager that he reported to before July 2009?---General manager, Tony Colicchia.

Can you spell that name for the record, please?---Tony C-o-l-l-i-c-h-i-a.

20 And what was his actual position in Q Video Systems?---General manager.

What was the principal business of the company?---We're an importer and distributor of closed circuit television products.

Okay. And those products include software?---As part of the hardware solutions we sold, yes.

30 In 2008/2009 your total turnover was approximately what?---Approximately \$17 million.

Now was the system – if Mr Thompson as the New South Wales manager wanted to purchase certain items or purchase various services, did he have a delegation, that is an upper limit upon which he needed approval?---We – for products, all products needed to be purchased by a product and purchasing manager in Melbourne. But the request came from all the branches all over Australia. Predominantly on if it's day to day products it was on a usage module we used to run. If it was a project we'd wait til we got the order and then they'd send the request for purchase and the good would be purchased.

40 If Mr Thompson wanted to purchase a significant amount of goods, over \$100,000, did he have to get approval from yourself or from the other general manager?---No, it's a request that goes down to our product and purchasing manager, which was a chap called Stanley El Comarlo and you know, Stanley would interrogate whether the project was real and place the order, because sometimes it's (not transcribable) times.

In relation to training services, if Mr Thompson wanted to train or arrange for the provision of training services to his staff did he require approval for that?---No, no, not at all.

What, what would be the system in terms of paying a consultant say for training? How would he, how would that work?---When any branch sent down any invoice, as long as it was approved by the branch manager it'd be paid by accounts department.

10 So there was no, there was no particular delegation level?---Not really.

What do you mean by not really?---Well - - -

Was there or wasn't there?---There wasn't.

Okay. Now Mr Theissen was an employee of Q Video Systems at the time. Is that correct?---He was.

20 What was his role?---Tony was really the, the most technical guy in the branch that did all the tenders, like an account manager (not transcribable) So he didn't really go and hunt for all the business, he did all the designs and tendering internally.

What was Mr Thompson's role in 2008/2009?---To hunt for business, to control the branch, to control costs within the branch, to control the stock in the branch. Virtually anything to do with our New South Wales business and he also was the national, national sales and marketing director, 'cause he was a director of the QR Sciences company.

30 Was one of Mr Thompson's roles to prepare tender submissions?---I don't believe Paul had much to do with the preparing of the tenders, he was more the guy that, we call it the hunter in the business, he used to go out and get the business, Tony was doing all the internal hack work and tender responses and designs.

And was Mr Thompson effective in his job as hunting business?---Paul was, you know, a very trusted employee and very good at what he did.

40 Now, were you aware that Q Video Systems had a relationship, that is a commercial business relationship with Daniel Paul?---Yes, I was.

And did Paul, did Q Video Systems work with Paul in relation to a number of different projects?---Yes, we did.

Westfield's was one?---Yeah, Westfield.

Lend Lease?---Lend Lease.

Stockland?---Stocklands.

GPT?---Yes, GPT.

Westfield in particular was a, was a large and ongoing project, is that correct?---Yes, it was from about 2007 onwards.

And it generated what kind of income for Q Video Systems, approximately?
---I would say at least \$2 million.

10

Overall or - - -?---Overall. That's revenue, not profit.

Did Mr Paul assist Q Video Systems in building its business in New South Wales?---Yeah, definitely and nationally, he was very, very helpful, testing products for us, pointing us in the right direction to a few overseas suppliers which we, we had some success with in all sorts of projects.

20

Now, to your knowledge did he assist in Q Videos being awarded a contract or tenders?---No, we didn't, we didn't have, Q Video didn't ever tender for projects, we were a supplier.

So did Mr Paul ever assist Q Videos in obtaining large orders to supply CCTV products?---No, I don't believe he did. He specified our product and it was up to us to work with the integrators on selected tenders to win the projects.

THE COMMISSIONER: That as a help wasn't it?---To specify the projects, yes, the products but it was, we didn't tender the projects.

30

No, I understand that. I'm not saying that there's anything wrong with specifying - - -?---No, I understand, yeah.

- - - you as well, that's just the fact?---Yeah.

MR STRICKLAND: Now, you - one of the CCTV products you specified was Verint, is that correct?---Verint, yes.

40

So Verint is a company that makes CCTV product is that correct?---That's correct, it's more of a software based product, yes.

Were you the exclusive wholesaler of that product in Australia?---We aren't, it is now distributed by several players.

I'm sorry, if I said it in the current tense I didn't mean to. I mean back in 2008/2009 were you the exclusive wholesaler of that product then?---I thought we were the exclusive wholesaler but we weren't, there was a company called Tyco had a relationship with Verint for predominantly the

State Rail project here in Sydney and Annixter had a global account but they were not very active in distribution of Verint in Australia.

So Q Video Systems was the principal distributor of Verint products?---I believed we were the preferred distributor if that's the right word with, with Verint because we worked with Verint in trying to develop the market.

10 What about Pelco, were you, did you distribute a lot of Pelco products in 2008/2009?---We became a Pelco distributor around 2008 I would imagine and over a period of three or four years we spent about \$4 million with Pelco in purchases.

Were you the exclusive distributor for Pelco?---No, no, we weren't, one of probably three or four distributors but there were many integration accounts, probably 20 plus so it was a very shared fragmented distribution - - -

20 THE COMMISSIONER: When there are – when there are several distributors of a product such as Pelco, do the different distributors supply the product at different prices?---Well, most distributors have loyal customers and routes to the market which are unique to that particular distributor.

They are giving, they are giving discounts that others might not give?
---Yes.

30 But the price at which each supplier gets the product from Pelco I take it is the same?---No, it's different. There was a, I recall a discount structure around 26 per cent off dealer price, which was the normal price point for everyone. If you had a request to buy say 50 of a particular item or 100 of a particular item, you could apply for a, what they call a CPD, a competitive price discount, and we purchased 100 of particular products all the time to try and get that better price, which could have been an extra up to 20 per cent off the- - -

But that CPD was available- - -?---To anyone.

To anyone?---Yep.

40 So the- - -?---Anyone who- - -

As long as you bought, if, if, if, if distributor A and distributor B wanted to buy a large number of Pelco products, they would always have to get them at the same price as long as they qualified, each qualified for this discount?
---Yeah, if they knew what they were doing. See, some companies don't actually have a lot of skill in procurement.

Yes, but assuming that they were professional- - -?---Yes.

- - -Pelco would not distinguish between suppliers save in regard to quantities purchased and when it came to quantities purchased they always gave the same discount?---No, I don't, it depends on the product and the circumstance of the project. If it, if- - -

Are you saying that Pelco gives different discounts to different people for the same amount of stock ordered where the stock is identical?---Yes, I would say they'd do that.

10 Do you have a personal knowledge of that?---Oh, just industry knowledge. I've been doing this for 20 years.

So you don't have personal knowledge?---No, but it's normal practice of Pelco.

How do you know that?---Well, it's just what I've been told by Pelco.

20 Well, I asked if you had personal knowledge and you said no. Your personal knowledge comes from Pelco?---Yep.

From who?---From ah, many years ago we were the exclusive distributor in 1998 and around, from that period onwards the, the VP of international sales would always tell us that you guys get the best product price in the world.

MR STRICKLAND: In your dealing with Mr Paul did you regard him as an influential player in the security industry, the high-end security industry? ---Yes, I did.

30 And in what way did you regard him as influential?---Paul, Dan, Daniel, sorry, he, he was very successful in obtaining the consultancy rights to many many projects, so he held a lot of power because of the, of the, the scope of works that he took on.

When you were involved, when Q Video Systems was involved in particular contracts with him, did he, was he actively involved in the transaction, did he insert himself into the transaction?---I couldn't answer that because I was very rarely involved in transacting with customers.

40 Do you know if he was active in specifying particular products?---Yeah, he was, but he was also very demanding. The product- - -

I beg your pardon?---He was very demanding and wanted the best for his client, and that's one thing that I, you know, you've got to hold, hold your hat up to him, he always worked for his client in the end.

If I can ask you about the Art Gallery, were you aware, did you become aware that Q Video Systems had contracted to supply CCTV product to Kings Security?---I knew we, we, we were working with Kings for,

probably from early February when the tender would have been released with what we thought was going to be the product used, Verint.

And did you, did you work with any other integrators who were also bidding for the contract?---Well, I'll just clarify. I was, I was never involved in any of these tender negotiations or quotations but I have reviewed and looked that we quoted at least six parties the same price on the same products in the, being Verint.

10 THE COMMISSIONER: Did you, did you, did I understand you correctly to say you thought that the preferred product was Verint for the Art Gallery tender?---Yes, yes, I did.

And how, how did you know that?---Because from oh, late 2008 onwards we had guys crawling all over the Art Gallery with, putting cameras in positions all hours of the night, overnight to get the right shots and our IT guys in Melbourne, our IP video guys had worked with Dan on a functionality spec to my knowledge and he selected Verint as the product he wanted to use.

20

And he was already the security consultant at that stage?---I, I would say we've tried to put Verint into the Westfield projects and GPT projects as well.

No, sorry, you misunderstood me. When he made it plain to you that Lenel/Verint or Verint was the preferred product, he was at that stage the consultant to the Art Gallery?---He, Dan never made it plain to me at all about anything with Verint. I'm just looking at the documentation I- - -

30 Would you just mind answering the question without defending Mr Paul?
---Mmm.

I'm just trying to get a simple answer- - -?---Yeah.

- - -to a simple question. My question was, when Mr Paul made it plain to you that the Verint product was the preferred product, was he then the consultant to the Art Gallery?---I don't- - -

Yes or no?---I don't know.

40

You don't know?---No.

So, but you said you had guys "crawling all over", to use your phrase- - -?
---Yeah.

- - -the Art Gallery?---Yeah, with camera angles.

Yes. Now, that could only have been done with permission by the Art Gallery?---Yep, that's - -

And arrangements would have had to have been made to enable your people to go in there?---Right.

With whom were those arrangements made?---With our New South Wales manager and I would think Daniel Paul.

10 Thank you. And he would, for those arrangements to be made with Daniel Paul he would have to be the security consultant?---That's correct.

Yes.

MR STRICKLAND: Did you know before, that before any contracts were awarded by the Art Gallery that Mr Paul had emailed a proposed budget to Q Video Systems in New South Wales?---I have, I can't, I don't know, no.

20 In your 20 years experience in the industry would you regard that as unusual for that to occur?---No, I would ah, in all my experience it is quite common for an end user or consultant to work with a supplier or group of suppliers up to a year before a tender process.

Assuming that the consultant hadn't already chosen a particular supplier but was in fact looking around for the preferred supplier, would you expect that any information he shared with a supplier to have been shared with other suppliers he was working with or not? Is that your experience?---Oh, I'd say he should have shared the information with everyone, yes.

30 Now, when did you come to the understanding that although the Verint, that the Verint CCTV product was not going to be used in the Art Gallery contract?---It was, I don't know the dates but I had a conversation with our general manager and IT manager in, in our Melbourne office and they said Verint's been turfed out and it's going to be Pelco. I couldn't tell you the dates.

40 And was that something that was unusual in your experience, for that to happen before, that is, for there to be a change in a specified product during a tender process?---No, the ah, the tender would have, I've never read the tender but the tender would have read something like, or approved equivalent.

THE COMMISSIONER: Sorry, it would have read, how would it have read?---It would have read something like "Verint or approved equivalent".

MR STRICKLAND: What income did you anticipate that Q Video Systems would generate from, as a result of supplying CCTV product for the Art Gallery contract?---Around 800,000.

All right. And did you expect to have – was there a policy of Q Video Systems to earn a particular margin in relation to the product supplied in a, in a contract such as that?---There was a – all our sales guys had a, had a – the intention was to get a 30 per cent margin. That’s what our business runs on, so all our budgeting was set up on 30 per cent margins, gross margins.

10 Did you ever discuss or are you aware of any discussion that there should be a significant reduction in the CCTV product being offered in relation to the Art Gallery tender?

THE COMMISSIONER: Price.

MR STRICKLAND: Price, what did I say, I’m sorry?

THE COMMISSIONER: (not transcribable)

20 MR STRICKLAND: I’ll ask the question again. Were you aware that there was any significant reduction in price for the Pelco CCTV product that was being offered in relation to the Art Gallery?---No.

So when the, when the product was actually sold to Kings was it your understanding that QVS would make its 30 per cent margin?---No, it wasn’t. We, it was indicated by Paul and Tony through their management reports - - -

I’m sorry Paul and Tony, can you just - - -?---Tony Theissen and Paul Thompson.

30 Right. Could I just say in relation to Paul there’s - - -?---Yeah, I understand.

- - - say the full name because there’s a Dan Paul and a Paul Thompson?
---Okay. Yep.

Go ahead?---Paul Thompson, Tony Theissen - - -

Yes?--- - - - the margin was going to be about 20 to 22 per cent across the project.

40 And that was by way of an email to you. Is that right?---No, it wasn’t, it was via a conversation I would have had with Tony Colicchia or Michael Siccita in Melbourne.

Okay. And did they have that conversation by way of getting an okay or an approval that they needed – that that margin could be reduced from the normal 30 to 20 to 22 per cent?---Well in project type sales I’d be, I’d be accepting anything above 20 as being okay to take the order.

In any event that was accepted was it?---Yes.

By you?---No, not by me, it just happened. It just – there was no approval from me to take the order.

I see. But you were consulted about the reduced margin. Is that correct?---I just, I just heard the whisper in the office.

10 Oh I see. It wasn't, it wasn't your decision to - - -?---No, not at all.

I've just got to finish the question just for the transcript. So it wasn't your decision to reduce the margin. Is that correct?---No.

Whose decision was it?---I'd say Paul Thompson and Tony Theissen put the price together.

Okay. Now Paul Thompson was an employee of QVS wasn't he?---Yes.

20 And what was his, what was his pay based upon?---His pay was based on the base salary of, I don't know, 120,000 and commission based on gross margin achieved both in New South Wales predominantly and also nationally, because he had national duties as well.

And he received a commission did you say?---Yes.

And what was the commission based upon?---Gross margin of, gross margin achieved in the branch and also gross margin achieved in the national business.

30 I see. Do you know what his percentage commission was?---Around two per cent of the branch and I think one per cent of the national business. But I could be wrong. I'd need to check the records.

Was it your belief that Daniel Paul assisted QVS in becoming the supplier of CCTV products in relation to the Art Gallery contract?---Yes, I believe he did help us.

40 In what way?---By allowing us to do all the testing and be shown as being proactive in providing the right solution for the Art Gallery. And when you say doing the testing could you just elaborate on that, please?---I recall Tony, Tony Theissen and Paul Thompson telling me on several occasions that they were at the Art Gallery after hours or during hours during the day time with various cameras, taking various camera shots with various resolution of cameras to obtain the best views and locations for the camera placement.

And this was before the contract was awarded?---Yes.

And sorry, the second thing you said was in being proactive and I just missed the next phrase I'm sorry?---Proactive in trying to assist the Art Gallery, that's what I - - -

Sorry, I'll have to get that phrase. Sorry, no one can assist me, Mr Commissioner, I just didn't hear three or four words in his evidence I'm wondering if you had a note. He said, the evidence was that he allowed, I said in what way did you assist, he said allow us to do testing and then he said being proactive in and I just missed a few words.

10

THE COMMISSIONER: Oh, I thought it was being proactive in getting the work.

MR STRICKLAND: That's, that's, it's those few words I missed.

THE COMMISSIONER: I can't say for sure.

MR STRICKLAND: I'm afraid no one, no one heard it.

20 THE COMMISSIONER: That's the sense that I got.

MR STRICKLAND: I'll try again, I'm sorry.

THE COMMISSIONER: Did you hear, Mr Griffin?

MR GRIFFIN: No, I heard proactive in the Gallery.

THE COMMISSIONER: I beg your pardon?

30 MR GRIFFIN: I heard proactive in the Gallery and I assumed it was just in relation to - - -

THE COMMISSIONER: Oh, I see.

MR STRICKLAND: So I'm sorry, I'll - it's probably our fault but you tend to drop your voice just at the end of the answer?---Fair enough.

40 Please keep it up. So I asked you in what way did he assist, you then talked about allowing us to do, allowing QVS to do the testing and then I think you said and allowing QVS to be proactive the Art Gallery, is that correct?
---Proactive in helping the Art Gallery - - -

Thank you?--- - - - get the best solution.

Thank you. And in what way did he assist in allowed QVS to be proactive in getting the best solution for the Art Gallery?---By inviting us to participate in this trials for want of a better word.

Okay, thank you. Thank you for that. And was that something he had done for you in relation to other projects apart from the Art Gallery?---When we did all the shopping centres, Westfield, GPT, Lend Lease and Stockland I believe Daniel appreciated the, the work and the professionalism of QVS and I, I believe that, that opportunity in the Art Gallery was a run off from that, those days with the shopping centres.

10 Do you know whether Mr Paul had a good personal relationship with Paul Thompson?---I believe he had a very good relationship with Paul Thompson.

I want to ask you about some invoices that were paid to Mr Paul. Could the witness please be shown Exhibit 81. I'm sorry, I should, sorry, there's one thing I've forgotten to ask you by way of a general nature, just before you turn to that, to your knowledge about the Endura 2 solution, do you know when the Endura, you've heard of Endura 2, is that right?---Oh, yeah, yes.

Had you heard of it back in 2009?---Yes, I heard it was coming.

20 And do you know when that Endura 2 product was actually released into the market?---I would, I'm having a guess at this but this is - - -

No, I don't want you to guess?

THE COMMISSIONER: I'd prefer you not to guess. If you don't know just say so?---Well, I don't know then.

30 MR STRICKLAND: Did you attend the ISC conference in 2009?---No, I did not.

Have you ever attended the ISC conference in, have you ever attended the ISC?---I've been there many, many times.

And was it usual for significant products to be released at that particular conference?---Yes.

40 And why is that, why was that the practice to your knowledge?---It's a showcase of the largest security conference in the world and the Americans had a lot of razzle dazzle behind them so they loved showing their products at that show.

Thank you. So if I can take you now to Exhibit 81. This is a, a, text messages that were sent to and from Mr Daniel Paul's mobile phone with which the Commission has access?---Ah hmm.

And you can see there are numbers on the left-hand column?---Yep.

856 to 865?---Yes.

And at 856 there's the text message, I just should say if you go to the middle column where it's got folder and status, do you see that?---Yes.

And where it says sent, that means sent from the mobile phone of Daniel Paul. If you just accept that?---Yeah, I understand.

10 So 856 is sent by Daniel Paul to your mobile phone number, and it says, "Hey, Rick, I trust you're well. Did you manage to sort that issue I called you about on Saturday? Regards, Dan." And I'll ask you about that in a moment. But then you reply a minute later, "Paul said he spoke to you on Monday. We are still waiting to be paid by all parties." So do you know what those two texts refer to?---Yes, I do.

Can you, first, what does his text refer to?---His text refers to an invoice that was sent to us for consultancy services, that's what the invoice said, for \$25,000.

20 Yep?---I had not seen the invoice at this stage, I just was told on the phone about it.

By him?---By him.

And when he rang you on the phone, what did he say?---He said, sent this invoice a while back with Thommo, has he told you about it, what's going on, when am I going to get my money?

Right?---I think that would be - - -

30 Right. That's the gist of it?---That's the gist of it, yes.

Right. And Thommo is who he referred to as Paul Thompson?---Paul Thompson.

And then what did you mean by your reply a minute later when you said, "We are still waiting to be paid by all parties"?---That, the reference to that is, we were supposed to be paid quite quickly for the Art Gallery supply of Pelco products- - -

40 Yes---?- - -put to Kings and there was significant delays in getting paid. I was using the leverage I had with Dan to push Kings to release payment from their, the Art Gallery to Charlie so he could pay us. Normal practice.

Had you been paid any money in relation to the CCTV products that you had supplied in relation to the Art Gallery contract?---There was initial payment of 190,000 which was as soon as the equipment hit our warehouse
- - -

Yes---?- -it was sighted by the consultant and the contractor and they released that amount of money.

And, but apart from that you had not been paid?---No.

And do you know when the equipment hit your warehouse, that is the date?
---I, yeah, sometime in June we had about 90 per cent of the stuff, perhaps even more in our warehouse.

10 June 2009?---Yes.

The next text is again from Daniel Paul to you. “He didn’t tell me that. I organised to get you paid for the first part before delivery, I wish you had told me, I will call him, that was never discussed.” Did you understand that being a reference to the payment for the security products supplied to the Art Gallery contract?---Yeah, the first, the first payment we received.

20 Okay. Then at, later on that day, I assume that 10.11.19, sorry, when I assume is 10.00pm, you wrote to him, “Okay. By the way, I was also never told that we were in the loop for the Art Gallery as there is not”, I think it should be a not?---Probably.

“Not a lot in this for us”?---Yep.

“So I’m surprised also. I have not seen an invoice yet either. I hear it is quite big so will need to be split into smaller amounts to avoid scrutiny.”
---Ah hmm.

30 Are you referring, in relation to that invoice, you’re referring to the invoice of 25,000. Is that correct?---That’s correct.

40 And why did you write that, “I hear it is quite big so will need to be split into smaller amount to avoid scrutiny”?---Cause we had just come out of our audit meeting the day before, the company had a negative cash flow of over \$2 million for the year before, year ending 30 June, and I didn’t want to have, I was basically on notice from the board to start delivering results and I wanted to spread the, the cost of these invoices for the work that was actually done, not just one big lump. I told both Paul Thompson and Daniel Paul we need it in, to, to detail the work you actually performed.

So when you say to avoid scrutiny, what you meant to avoid scrutiny from your own board?---Our own accounts, yeah. Our board, our shareholders when we put our quarterly cashflow out at the end of September, I was trying to get our cashflow looking a lot better.

So did you understand at that point in time – did you have a belief at that point in time that the invoice was not genuine?---No, no.

I will – to explain that question, ie that it was a bogus invoice and didn't represent genuine work or services performed by Paul?---It represented work and services performed by Daniel Paul that Paul Thompson arranged, but the invoice had no details on it what the work was for.

When you say it did represent – you're saying that was your belief then or your belief now?---My belief then.

10 And now?---And now after looking at this inquiry I've got no idea what to believe any more.

So your – the statement you've expressed was you wanted the invoice to be split into smaller amounts, what had to be paid and for them to be some kind of staggered payment. Is that right?---That's correct.

The actual text doesn't say to be paid in stages does it?---No, it doesn't.

20 Was there a follow up – did you follow a text up with any telephone call to Paul Thompson or to, or to Daniel Paul?---I would have spoke to Paul and Daniel during the day and communicated what I wanted after I verified the work was done and everyone was happy.

When you say you would have did you do that?---Yes.

Okay. And what did you say to Daniel Paul?---I would have said what's it all about, mate. I knew nothing about an invoice coming to us.

30 Right. And did he tell you what the invoice was about?---Yeah, he said for, it was for training.

All right. And did he tell you who he was training?---Paul Thompson.

All right. And did he tell you what he was training Paul Thompson for?
---Tender training and I had instructed Paul earlier in the year that we were looking at the diversification in the business and he needed to be very aware of public tenders and you know, tenders and how to, how to communicate in tender meetings.

40 Mr Stokes, did you ever query Mr Paul, that is Daniel Paul as to the fact that he had rendered the bill for \$25,000 to tender training?---Yes, I did. I said, what, I said, are you guys crazy? What is this all about? So the exact words escape me but it would have been in those text, and it would have been a bit more expletive I would imagine.

I mean did you ever ask for – did you ever see an agreement, a written agreement between Q Video Systems and Paul by which he could render a bill for \$25,000?---No agreement, but I was aware that Daniel and Paul

Thompson and Tony Theissen worked very closely with Dan Paul over several years.

Could the witness please be shown Exhibit 80? Have you got a copy of that document?---Yes, I have.

So is that – if you go to page 198 is that the invoice you’ve been referring to in your evidence?---That’s the original invoice which I was told about but never seen until 3 September.

10

Okay. And then it was - - -

THE COMMISSIONER: 3 September last year?---2009.

2009.

MR STRICKLAND: And then if you go to page 195 you can see that Mr Paul Thompson has written to Jamie Taylor. Who’s Jamie Taylor?---He was the CFO at the time.

20

Of?---Of QR Sciences or Q Technology Group as it is today.

And so that email which is “What Dan should have done is provide us with four separate invoices which are now attached”, that was pursuant to your instruction, is that right?---Yes, it was.

Now your evidence earlier was that you didn’t get involved in these type of matters because the New South Wales managers did. Why did you get involved in this particular matter?---Because Dan rang me and asked me for, why, why hasn’t this been paid.

30

Could the witness be given Exhibit 82 please. I should have asked, I should have asked you, you did say that you spoke to Mr Dan Paul and Mr Paul Thompson during the day of 2 September. What did Mr Paul Thompson say about the \$25,000 invoice?---He said it can be paid in small chunks because it was to do with a lot of training we’ve done.

He said because it’s got to do, I’ve just missed again a couple of words, can you repeat your evidence?---Because it was, it was in, it can be paid in smaller chunks.

40

Yeah, I got that bit?---Because it referred to training for several states.

Right. Did he tell you that that training had already been done in relation for several states?---Yes, he did.

So he did not say to you that this was payment in advance for services that had not yet been done?---No.

And did you ever confirm from anyone in any other state apart from New South Wales whether Mr Paul had ever delivered training services in those states?---It was all done to Paul Thompson.

I beg your pardon?---Paul Thompson participated in all the training on behalf of the company.

10 Now but what you just told is that Mr Thompson told you that there had been training done in other states?---For, for other states.

Yes?---But all, all gone out of our New South Wales office because Paul was the national manager.

I'm afraid I just don't understand it. What, what, what do you mean training for other states?---It would have been for projects in other states I would, that's how I take it. That's how I take the conversations and the, the invoices.

20 Do you mean for ongoing projects, training for, training for what precisely in other states?---Well, in, in June there was a national tender for Westfield with about 50 sites dotted all over Australia which we were very keen to win obviously so I can only go back that it was approved by Paul and he told me that, that's what the work was done and I said well, send it down again for approve, approve the invoices, send it down, they'll be paid.

30 But did you ever say this to Mr Thompson, why do you need \$25,000 worth of training for tender submission, you don't do that type of work, that's not your job to be involved in the nitty-gritty of preparing tenders?---But it was about to be because we were undertaking due diligence with a national integration company in the audio visual space.

THE COMMISSIONER: So was there some kind of investigation undertaken as part of the due diligence?---No, no, we - my, my intention was to offer Paul a position as the head of sales in this new organisation we were doing due diligence.

40 MR STRICKLAND: Paul, Paul Thompson?---Paul Thompson, sorry, and I wanted him up to speed.

THE COMMISSIONER: And, Mr Stokes, did you ever inquire as to how many hours training had been given and what Mr Paul's hourly rate was and how much time he'd spent in each particular area, did you ever ask questions like that?---No.

Did you ever look for the, any underlying documents that could support such a charge and to show what work he'd done?---No.

And was there ever an investigation undertaken by your company which would have turned up documents like that had they existed?---There was never an investigation.

Never an investigation?---Never an investigation. We, we only investigated when we were requested for data by the ICAC.

I see. So it'd be wrong to say that you undertook any investigations?---To my knowledge we did not undertake any investigation.

10

All right. Thank you.

MR STRICKLAND: And was it your understanding that the only person who was trained pursuant to that \$25,000 invoice was Mr Paul Thompson? ---Yes.

Not anyone else?---Not anyone else.

20

THE COMMISSIONER: And if this, if this was a genuine invoice I take it there would have been documents relating to the work for which the charge was made?---There was – Paul approved the documents, approved the invoices and they came down, we raised a purchase journal in our accounting system and it was put in our payment methods and it was paid. Duly honoured presented invoice, a legal invoice.

30

Yes. Well I, if one looks at the invoice I mean there's no, there's no description of the nature of the services. There's no description of the dates, there's no description of when and where the services were undertaken. Is that the kind of invoice you'd just pay?---If it's approved by a senior manager it would just get paid, yes.

Without asking any questions?---Without asking any questions. I asked the questions, I had the argument with Paul and, Paul Thompson and Daniel Paul in the preceding, from that Saturday period to receiving all this documentation. And I was satisfied given Paul's, Paul Thompson's version of events.

40

So was there an incentive to pay this amount because you thought that if you didn't pay you would harm your chances of winning work?---No incentive to pay 25, 000, I can tell you, 'cause we had cashflow issues as the time, I was very angry actually not knowing about it.

So you're saying that – so it would be quite wrong to say that you paid it because you knew that all the projects that were going on around the country and if you said no your chances of, of winning any work say in relation to Westfield, Lend Lease and probably the Art Gallery and other projects that they would be affected, it'd be wrong to say that would it? ---Yes.

Well, yes, all right. Perhaps I'll ask you about that, I'll ask you about that question again tomorrow morning.

MR STRICKLAND: Could I just have a few more questions?

THE COMMISSIONER: Yes.

10 MR STRICKLAND: Could the witness just be given Exhibits 82, 83, 82 and 83. Just look at Exhibit 82, Exhibit 82 first, please. Did you actually see these four invoices at the time, that is around September 2009?---Yeah, I saw these after – they were sent to me, yes.

All right. And did you regard them as being genuine?---Yes.

See it's got training for tender submissions in Perth?---Ah hmm.

20 It's got training for tender submissions Perth February '09, Queensland March 2009, Victoria April 2009 and Sydney May 2009?---Yep, I can see that.

Do you understand that he actually did training for tender submissions in Perth in February 2009?---I understand that they were approved by Paul Thompson and I did not question Paul Thompson at the time.

But that's – would you answer my question?---Will you repeat it?

30 When you received this invoice did you understand that Mr Paul had done training for tender submissions in Perth in February 2009?---Yes.

What that he'd gone over to Perth to do training of staff, staff in Perth? ---My understanding was he did training with Paul Thompson in our New South Wales office. There was a large project coming up next year that I knew about in Perth and I believed it was to do with that.

What was, what was the large project in Perth?---Garden Island, Perth.

40 I see. And you understood that that invoice related to training for Garden Island. Is that correct?---Yep, yes.

THE COMMISSIONER: Is that what Mr Thompson told you?---Yes, that's correct.

MR STRICKLAND: Are you sure about that, Mr Stokes?---I'm as sure as I can be.

I see. Did they work – did he tell you that they worked on any specific documents in relation to training for tender submissions for the Garden Island project?---No.

When was the Garden Island project due to occur?---The next year.

2010?---2010 a Garden Island project happened but there was also Garden Island in Perth that was going to happen.

10 So he charged \$8,250 for training, training Mr Thompson in relation to tender submissions for a project that was occurring the following year?
---That's what was approved.

No, I know, but that's what he told you?---Yeah, yes.

THE COMMISSIONER: And you were quite happy to accept that explanation?---I accepted a lot of things from a lot of people and I did accept that explanation, yes.

20 MR STRICKLAND: Well, what about if you go to page 202, what were you told about training for tender submissions in Queensland in March 2009?
---I was told work was done.

What work?---Training for- - -

In Queensland?---Training for tenders.

30 What, did he go to Queensland in March 2009?---Don't know.
Well, did you ask?---No, I didn't.

But this invoice was being sent to you at your request and you looked at it?
---Yeah, after the conversation I had on the ah, probably the Monday of that week or the Tuesday, whatever day it was, and they verified the work was done, I was satisfied with that, both, both parties verified, yes, I've this work, Mr Paul that was, Mr Thompson said yes, the work's done, right, send the invoices down, what, and we'll get them paid.

40 Yes, but given that you had specifically intervened in this for the reasons you've outlined and you specifically received this tax invoice- - -?
---Ah hmm.

- - -are you saying you did not ask yourself or ask Mr Thompson what training was done for tender submissions in Queensland in March 2009?
---No, I didn't ask specifics.

Well, were you satisfied?---On what basis were you satisfied that there was training for tender submissions in Queensland in March 2009?---Because I trusted Paul Thompson and what he told me.

What did he tell you about that particular- -?---That the work was done and ah, yeah, we, we owe Dan the money.

10 So you're saying in relation to each of these four invoices, Mr Thompson gave you a separate explanation. Is that correct?---It was a very short explanation and it would have been along the lines of, here's the invoices, here's the work that was done, can we please pay Dan.

That's not answer to my question. I'll repeat the question. Are you saying that in relation to each of these four invoices he gave you a separate explanation for the work that was done?---No, he wouldn't have.

But he gave, you asked and he gave you one for the- -?---Yeah.

20 - - -invoice at page 199, aren't you?---Yes.

So he gave you for one but not for the other three. Is that right?---The other, I just would have ah, took it that the other three, three invoices were valid and we paid them.

So you're saying you didn't, if you go to page 205, you didn't ask any explanation for the invoice about provision of consultancy services, sorry, the training for tender submissions in Victoria in April 2009?---No, I didn't.

30 You, you, you knew, didn't you, that Mr Paul hadn't travelled to each of those states and provided training for staff in each of those states, you knew that, didn't you?---I knew it was all done through New South Wales.

Well, that being, that being so, and given the amount involved, this, these invoices had a small to them, didn't they?---I wasn't happy when I saw the first invoice, Paul convinced me that these were true and valid and we processed them and paid them.

And by Paul do you mean Paul Thompson?---Paul Thompson, sorry.

40 I just want to take you to the next – if I can just go for five more minutes and I'll stop. If you can just go to Exhibit 83. Do you know, do you know anything about that particular invoice, it's invoice 31207, and what that, and what that was for?---I could only, I believe the invoices in those periods were relating to rebates for shopping centres.

Are you talking about this invoice 31207, correct?---Yeah.

Rebates for shopping centres, yes?---Yeah.

Yes?---And our accounting system, we, we just put it as consulting, we asked just to invoice as consultancy. There would have been documentation, our finance department would have verified for the amount.

Well, it says tender review advice?---I understand what it says.

So what is the actual advice given in relation to this invoice by Mr Paul?
---Oh, it says provision of consultancy service for tender review advice.

10

Yes. So what's the actual tender review advice given?---I don't know.

And what about the next invoice, 20608 on 2 June, 2008, provision of consultancy services, do you know what that relates to, \$14,395?---That, I, I know exactly what that relates to, it relates to rebates but it does not say rebates on it.

What do you mean it relates to rebates? What do you mean exactly by that?
---There was a, there was a schedule and another document which would
came down with this invoice - - -

20

Yes?--- - - - and it was, there was a lift of various projects done around Australia through various integrators and we paid Mr Paul 5 per cent rebate on all the sales for those projects.

And was that rebate supposed to go to the end user?---We already paid, we paid the end user their 5 per cent on the same projects, we paid Mr Paul an additional 5 per cent.

30

Why does Mr Paul get 5 per cent rebate?---Because that was what was agreed by Paul Thompson and Mr Paul and I was supportive of that at the time.

But the description of the invoice doesn't match what you've just told us, does it?---Correct, it does not.

And why not?---I have no, I don't know.

40

When did you first view this invoice?---Oh, there was a, there was three payments in total, I, I recall only seeing one invoice ever from Dan Paul in that period 2007/2008.

Okay?---It went to our accounts department.

Sorry, when did you see that one invoice?---Probably when it arrived, it would have been the first payment we ever made to Dan, the other ones just went straight to our accounts department and the process in our business were reasonably busy so if it was approved by Paul Thompson it got paid.

So which of the, is the one invoice you saw either of these two invoices I've just shown you?---Ah - - -

Or was it another one?---I have seen them all now so I couldn't, couldn't even, can't comment.

So you don't know which invoice you saw back - - -?---No.

10 - - - at the time - - -?---No.

- - - was this one?---No.

Now, you're aware aren't you that Q Video Systems paid Paul about \$68,000 is that correct?---That's correct.

Over what period of time?---From around 2007 till 2009?---Okay.

20 Commissioner, I would seek an order, and I've spoken to Mr Stokes counsel about this, under section 35(2) in relation to these matters, (1) records of all payments made by Q Video Systems and that that should incorporate all the relevant companies to Daniel Paul or any company with which he is associated between 2007 and 2011.

THE COMMISSIONER: I'm sorry, I'm behind you.

MR STRICKLAND: I'm sorry, I beg your pardon.

30 THE COMMISSIONER: You said records of all payments made by Q Videos to Daniel Paul or any - - -

MR STRICKLAND: Or any company which he is associated between 1 January, 2007 and 31 December, 2011.

THE COMMISSIONER: Sorry, just give me those dates again?

MR STRICKLAND: I'm sorry, 1 January, 2007.

40 THE COMMISSIONER: Between 1 January, 2007.

MR STRICKLAND: And 31 December, 2011.

THE COMMISSIONER: Yes. That's it?

MR STRICKLAND: No. Secondly, a copy of Paul Thompson and Anthony Theissen's Outlook Express records between 1 January, 2009 and 31 December, 2010.

THE COMMISSIONER: Sorry, what was the second date?

MR STRICKLAND: 31 December, 2010.

THE COMMISSIONER: Yes.

MR STRICKLAND: And thirdly all records relating to payments made by Pelco to QVS between 1 January, sorry, between, yes, 1 January, 2009 to 31 December, 2009. I should state in relation to that we have been provided with bank statements. But it was while discussions, Mr Stokes' counsel, we, we would seek such an order to see if there are any other payments that may have been missed as a result of documents that have already been provided to us. I'm sorry, I've just been handed a note, in relation to the second item, a copy of Mr Thompson and Mr Theissen's Outlook Express in either electronic or hardcopy, if that could just be added to that item.

THE COMMISSIONER: Yes. That's it?

MR STRICKLAND: That's it.

THE COMMISSIONER: Mr Griffin, do you have anything you wish to say about that?

MR GRIFFIN: No. We have had discussions. We've been producing material progressively as has been asked for, but by having the order we'll be able to explain what searches we carry out in addition to making a return (not transcribable)

THE COMMISSIONER: Yes, thank you. I appreciate that.

Well there'll be an order under section 35 to acquiring Mr Stokes to produce (1) records of all payments made by Q Video to Daniel Paul or any company with which he is associated between 1 January, 2007 and 31 December, 2011, (2) a copy of all of the Outlook Express records in either electronic or hardcopy form of Paul Thompson and Anthony Theissen for the period between 1 January, 2009 to 31 December, 2010 and (3) all records relating to, all payments made by Q Video between 1 January, 2009 and 31 December, 2009. I should say that in making these orders I recognise that some of the documents requested have already been produced, it will not be necessary for Mr Stokes to produce any, any documents which he has already produced.

WELL THERE'LL BE AN ORDER UNDER SECTION 35 TO ACQUIRING MR STOKES TO PRODUCE (1) RECORDS OF ALL PAYMENTS MADE BY Q VIDEO TO DANIEL PAUL OR ANY COMPANY WITH WHICH HE IS ASSOCIATED BETWEEN 1 JANUARY, 2007 AND 31 DECEMBER, 2011, (2) A COPY OF ALL

**OF THE OUTLOOK EXPRESS RECORDS IN EITHER
ELECTRONIC OR HARDCOPY FORM OF PAUL THOMPSON
AND ANTHONY THEISSEN FOR THE PERIOD BETWEEN 1
JANUARY, 2009 TO 31 DECEMBER, 2010 AND (3) ALL RECORDS
RELATING TO, ALL PAYMENTS MADE BY Q VIDEO BETWEEN
1 JANUARY, 2009 AND 31 DECEMBER, 2009. I SHOULD SAY
THAT IN MAKING THESE ORDERS I RECOGNISE THAT SOME
OF THE DOCUMENTS REQUESTED HAVE ALREADY BEEN
PRODUCED, IT WILL NOT BE NECESSARY FOR MR STOKES
10 TO PRODUCE ANY, ANY DOCUMENTS WHICH HE HAS
ALREADY PRODUCED**

MR GRIFFIN: Thank you, Commissioner.

THE COMMISSIONER: Yes, the Commission will now adjourn until
10.00am tomorrow.

20 **THE WITNESS WITHDRAWN** [4.03pm]

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