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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

Reference: Operation E09/350

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 8 AUGUST, 2012

AT 2.06PM

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 STRICKLAND: If the witness could be shown Exhibit 74. If you just go to an email at page 538 on – right at the bottom of 538, at the bottom of the page on 16 February to Mr Yallouris. You’re asking to, the subject is the Art Gallery, “Don’t forget to send me the quotes for options (1) and (2) and (3) once you have good news as soon as possible. The integrators are nagging.” Do you know what that’s a reference to?---I believe we must
10 have been being asked by the integrators for pricing for these options.

And the options relayed to different - - -?---Different configurations of equipment.

Does any of those three options – I’ll withdraw that. One of those three options involved the Pelco product didn’t it?---All of these options are for the Pelco product.

All of them?---Yes.
20

The 537 and 538 you understand they’re a separate email. Do you understand that?---Yes, I do.

Okay. So all these options are for the Pelco product. Correct?---That is correct.

And we I’ll go between the two emails. You see at 537 Mr Yallouris is writing to you on 18 February, “Every exciting stuff with Endura 2. They must go this way”. Do you see that?---Yes.
30

And then option (1) he also gets – is that an Endura 2 option?---I believe that all three are Endura 2, but underneath that software umbrella if you like there are different configurations of hardware that you can have. That’s my understanding.

I see. What was your understanding of the basic distinction between the Endura 2 product and Verint?---Sorry, could you repeat the question?

40 What was the basic distinction according to your understanding between the Verint product and the Endura 2 product?---The basic difference between them is the, is the nature of their design. One is a hardware based product with its own hardware and software integrated. The Verint is a software product which is then combined with off the shelf hardware that you buy from a third party.

But in terms of their actual results that they could achieve, isn’t, doesn’t one have, doesn’t it have to do with high definition images and the capacity to store those?---At the time of, of these events that was when both systems

were getting into high definition video and I believe that Verint were in front of Pelco in that regard.

Well, what did Endura 2 have to offer that Verint didn't have to offer, Endura 2?---Endura 2 was the first step in I believe, and I apologise, I'm not the complete technical expert, but I believe it was the start of their gateway into high definition closed-circuit television and I believe the software came out first and then the hardware followed on in months to come.

10 Okay. Well, here on 18 February Mr Yallouris was advising you that Endura 2 involved very exciting stuff, correct?---Yes.

And you know that at the bottom of page 538 he advised you, "Please note all megapixel options are based on version 2 Endura due in April." Do you see that?---Yes, I see that.

And can I suggest that you, were you ever advised by Mr Yallouris that version 2 Endura was due at any earlier period than that which is written in this email?---I honestly do not recall, I may have been but I don't recall.

20

Well, you may have been or you may not have been?---I may or may not have been, correct.

So the answer is I don't know?---I don't know.

All right. And if you go to your 16 February email you can see there that you're discussing send amended quotes for options 1 and 2 and 3 once you have good news. What's the reference to that option 3 good news, do you know?---I don't know, I would, no, I don't know.

30

Okay. But at that stage obviously when you sent this email you'd already had in mind that there were at least two or three different options for Endura 2, correct?---Correct.

And you had been discussing them with Darren Paul, hadn't you?---Yes, it certainly appears so.

Indeed, you say "Spent a couple of hours with Dan today who likes the idea of option 2 very much", do you see that?---I do, yes.

40

And that's, that is option 2 relating to the Endura 2 product, correct?---Correct.

Now, you knew at that time, and this is 16 February, 2009, that the product that had actually been specified in the specifications was Verint, is that right?---Correct.

So what was your understanding as at the time of these emails, I'm talking about now 16, I beg your pardon, 16 and 18 February, was it your understanding that the most likely system to be used in the security upgrade would be Verint or Endura 2 or something else?---At that time I'm not sure what I was thinking. I believed for a long time that it was going to be Verint.

10 And then when, when did you, when did that view change or did it change?
---I believe we were advised just after the first tender meeting when the contractors or the integrators asked us for a second price or a final price for Pelco.

Okay. Well, I'll come to that in a moment but did you convey or was it discussed - when you spoke to Mr Paul did it appear that he as at 16 February was leaning towards the Endura 2 option, that is option 2 of Endura 2?---It would indicate that from this document but I don't recall at the time.

20 Okay. You then, you then state - I should, sorry, the next sentence is "He will accept a proposal where we put a fixed camera in place of the Arecont 360", now that's a, that's a particular camera, is that right?---Correct.

Which revolves 360 degrees?---Correct.

30 "And swap them over when the system can take them", what's that, what's that a reference to?---I cannot recall the conversation but by reading this I believe that Pelco could not take the Arecont 360 camera, that it didn't have the right software to do and so it looks like we're discussing a temporary solution until Pelco have upgraded their product in the future to be able to accommodate that product.

I understand that but you see the - that full sentence is he will accept a proposal, where he put a fixed camera in place of the Arecont 360. See that - the language of that sentence written by you indicates that Mr Paul was planning in precise terms for the Endura 2 system to be installed, doesn't it?---It would indicate he's certainly considering it, yes.

40 You then say he's still hoping that Kings or Tony get it but seems to be leading towards Kings. That's a reflection of what he said to you isn't it?
---It would appear so.

Well is there any other appearance?---No.

Did you think that was unusual that a security consultant would tell you before even the interviews took place which integrator he was leaning towards?---Not unusual, no.

Not unusual for Mr Paul or not unusual generally?---Not unusual generally. I'll expand if I might, occasionally, sorry.

No. You go ahead.

THE COMMISSIONER: What did you say, occasionally?---I was about to say occasionally and you're lucky enough to get sort of snippets of information from consultants of intentionally or unintentionally having conversations which give you an indication as to how the process is going.

10

MR STRICKLAND:: And you of course were good friends with him?
---Yes.

So you didn't think there was anything untoward about Mr Paul indicating to you before any interviews took place that he was at that stage leaning towards one of them Kings?---I, I didn't know.

Excuse me. Sorry, Mr Commissioner, I've just lost a reference. I'm looking for the 19 February quote and I'm afraid I just didn't have a reference to it in my notes. I wonder if someone can assist me. It's the 19 -
20 thank you. Exhibit 1 tab 47. Now if I can take you to page 554 and I appreciate you weren't copied into this email - I'm sorry, you were copied into this email but you see in that email Mr Theissen sends to you - sends to Kings a copy to you a quote from Q Video System at page 555 which then itself attaches a proposal based upon the Endura Version 2 System. Do you see that?---I do.

Then if you go to 556 you'll see that the supplier price, total supplier price at the bottom is 7855.35. Do you see that?---Correct.
30 Now do you agree that that is the only written quote that was provided by QVS to Kings in relation to the Art Gallery contract?---I don't know.

Did you see any other written quote for the Endura 2 product?---I don't know.

You've understood for some time haven't you the significance for the purposes of this hearing of the actual quote provided by Q Video Systems for Endura 2 to Kings?---Yes.

40 And have you thought about whether there was more than one written quote provided by QVS to Kings?---Yes, I've thought about it.

And are you saying, having thought about it, you still don't recall whether there was another quote?---I don't believe there was another quote.

THE COMMISSIONER: Have you looked for another quote?---I don't have access to those no longer being there. I don't believe there was another quote, but I could not say 100 per cent.

MR STRICKLAND: And if you just go to page 558. I just wonder if you're able to assist here. If you compare 558 to 555 there appears to be two, there appears to be two identical letters but one's dated 18 February and one's dated 19 February. Are you able to assist as to why that is the case?---Looking at the letter I can only assume it was quoted because the date on the first one is 2008 and the second one is 2009. And maybe it was go get the, the, the validity of the quote accurate.

10 Okay. Thank you. Now you recall an email that I showed you before lunch which was that you had been hassling the Greek fellow or something like that?---Indeed.

Now that is a true reflection of what was going on in 19 February, 2009, you were hassling Pelco for the Endura 2 quote weren't you?---Yes.

Because it was urgent?---Correct.

20 And why was it urgent?---I believe there was only a short timeframe that the integrators had been given to respond.

And Kings – Mr Diekman had conveyed to you his urgency to get that quote. Correct?---Yes.

Because it was the integrators that were hassling you wasn't it?---Yes.

Any other integrators hassling you – I haven't finished the question, for the Endura 2 quote apart from Mr Diekman?---I don't know.

30 None that you can remember?---None that I can remember.

So did you have a – what discussions did you have with Mr Diekman about the Endura 2 product?---I would not have had many discussions about it from a product point of view, that would have been handled by Tony Theissen.

40 Well what about from the point of view of hurrying up to get a quote?---I think he probably would have been just trying to apply a bit more pressure and asking me to do that rather than just relying on Tony to do that for him.

And did he tell you that, did he tell you that he had had any discussions with Mr Paul about the Endura 2 solution?---I can't recall.

THE COMMISSIONER: Why was he so intense about it? What was the urgency?---I can only say what I believe is that it was a timeframe, they didn't have long to meet deadlines to get prices submitted.

But why would he be so interested in the Pelco price if, if the Verint price, if the Verint was at that stage the favoured solution?---Even though Verint was the, the favoured solution, the benchmark if you like, it's not uncommon for integrators to put one or two alternatives in to see if that will give them an advantage on product or, or price.

MR STRICKLAND: Now how long had you been in the industry as at that time, 2009?---10 years, maybe 12 years.

10 So you understood didn't you that based upon your discussions with Daniel Paul that even as early as 16 February, 2009 he was indicating a good deal of interest in the Endura 2 product. Correct?---Yes, correct.

And indeed such an interest that he was even planning how to change cameras so he could, it could fit in with the Endura 2 solution. Correct? ---Correct.

So obviously the actual availability of the Endura 2 solution was a critical factor wasn't it?---Correct.

20

You had been told, and I've shown you the document that it was not due to be released until April 2009. Correct?---Correct.

And that corresponded with the ISC conference in Las Vegas didn't it? ---Correct.

Your experience and knowledge is, isn't it, that for products such as that they are generally released at that ISC conference?---They're often released, yes.

30

Because that gives them maximum exposure?---Correct.

Well did you have any communication whatsoever with Mr Paul or Mr Yallouris which would indicate an earlier release date i.e. earlier than April 2009?---I don't recall.

40

THE COMMISSIONER: You're saying you don't recall having had such a discussion or does that mean you may have had such a discussion but you don't recall it or does it mean you don't, you don't think you had such a discussion because you don't recall it?---I don't think I had such a discussion because I don't recall it.

MR STRICKLAND: If you did have such a discussion, in other words if you had been told about an earlier release date it is a near certainty that you would have communicated that to Mr Paul and the integrator who was (not transcribable) correct?---Correct.

And now I think you said a little earlier and I said I'd come back to it, that you learnt some information about, about - I'm sorry. That you believed that at, at or after an interview you learnt some new information about Endura 2 or the price. Do you recall giving that evidence?---I don't recall that, I'm sorry.

Well, what - well let me just focus on the price of I think \$785,000 quoted in that, in that 19 February quote. That's the price isn't it, 785? It's Exhibit 1 tab 46 or 47. I'm seeking to remind you of the price that's all.

10

THE COMMISSIONER: Which is behind the email at 647?---Yes.

MR STRICKLAND:: 785?---Yes, correct.

Now were you aware at any stage - I'm sorry, I withdraw that. That 785 was based upon quotes that had been sent to you by Pelco, correct?---Correct.

Did Pelco ever send you any other quotes apart from that one?---I don't know.

20

Well if they - - -

THE COMMISSIONER: Do you know of any? They may have - I understand they might have sent Q Videos. Could they have sent them to Q Videos without you knowing?---I mean I, I, I think that the pricing process may have been one that might have been done in a number of communications but I don't recall specific ones at all other than what you've shown me so far.

MR STRICKLAND: Were you a party to any discussions about a reduction in that price for the Art Gallery?---From Pelco.

That's right?---Yes, I think I would have been, yes, we would have been trying to get the best final price from Pelco.

Perhaps my question was too vague. Were you a party to any conversation where Pelco offered a price less than the \$785,000?---They're a component of the \$785,000. I don't recall them offering, I think we probably would have asked them for their best last price but I don't recall them coming to us offering - - -

40

THE COMMISSIONER: Is that something that that you would have recalled had it occurred?---My recollection is not great so I wouldn't want to be accurate or, or profess to be accurate without knowing.

MR STRICKLAND: Your evidence as I understand it is this; your ordinary practice would have been to try and chisel the price down?---Correct.

Understand that. My question is do you have a recollection of Pelco ever offering a lower price other than the \$785,000?---I don't have any recollection of that, no.

And are you, are you now aware - I withdraw that. No, I won't ask that.

THE COMMISSIONER: Sorry, if there had been a reduction is that something of which you would have been aware even though you can't recall it today?---I, I would have been aware, yes.

10

It couldn't happen without you knowing?---No.

Now, I assume that if Pelco had said to you you could have it for nothing that would have been a fairly staggering thing for Pelco to do?---Correct.

You would have remembered that?---I know that that was not the case.

20

All right. So can I, going to the other extreme I take it that if they'd have made a reduction from 10 to \$20,000 that you would have regarded as valuable but not something you necessarily might have remembered?
---Correct.

But there would come a point in time when the, when the reduction would be surprising, so surprising that you would always remember it?---Correct.

So would that be about 50,000?---That would be a good figure, yes.

30

MR STRICKLAND: Were you aware that as at 27 February, 2009, that is the date of the first interviews that the integrators had with the Art Gallery, were you aware that Kings had substantially dropped its price for the Pelco Endura alternative?---No, I don't believe I was.

THE COMMISSIONER: Or that it had substantially reduced its price for the tender?---No, I don't believe I was aware of that.

MR STRICKLAND: Did you ever become aware of that fact?---I think only through these proceedings.

40

Well, apart from these proceedings?---No, I don't believe so.

When did you become, when did you first become aware that the Endura 2 solution was the solution selected by the Art Gallery for its security upgrade?---I don't know the exact date, it would have been after the official decision was made.

Are you saying that you were not made aware of that at any stage before the contract had been awarded?---I don't believe so.

When Mr Paul indicated to you that you, that he was leaning towards Kings, that was as at your email of 16 February, did he tell you why?---I don't recall that conversation, no.

Did that surprise you that he was in fact leaning towards Kings?---I don't believe it surprised me but I don't recall the conversation or how I felt about it.

10 And why didn't it surprise you?---I think we viewed Kings as a good integrator at the time, I don't think any of the people that were tendering for that project would have surprised me if they'd been at the, at the top of the pack.

Could the witness please be - I'm sorry, one other question. Have you ever been involved in a tender process where during the tender process or indeed during the very end of the tender process the benchmark solution had been ditched for another solution?---Yes, it's not, it's not common but it's not uncommon so, yes, I have been involved in that before.

20 Now, could the witness please be shown Exhibit 2, tab 28. If I can just take you to 216 please and an email from Tony Theissen to Peter Roche which you were copied, can you see the second paragraph says, "As per our conversations" excuse me, sorry, I'll repeat that. "As per the conversations between Paul and Charlie the housings are over and above the agreed 725K supply price". I'll just stop you there. Now, the figure I showed you was 785?---Correct.

30 Can you explain what – does the agreed 725k supply price, what does that relate to?---I would assume that the final quoted price that we saw earlier was reduced to secure the business down to 725. That's what I would assume from reading that.

But you don't have a recollection of that happening?---No, I don't.

THE COMMISSIONER: That's about the \$50,000 mark isn't it? That's just really on the cusp?---Yes.

40 How would that reduction – who would agree the reduction if it wasn't you?---May I say that may not necessarily have been due to any reduction in price from Pelco. That may have been, we believed we were in a competitive situation with Kings, that we were competing with other possible suppliers for some or all of it. And it may purely have been us looking inward and deciding to take a lower price.

Right.

MR STRICKLAND: If that were the case wouldn't there be another quote provided?---I would have thought so, yes.

But you've never see that other quote?---I don't recall it, no.

But you were the manager of New South Wales and if anyone – and you would have needed to have approved another quote wouldn't you?

---Correct.

THE COMMISSIONER: So could Tony Theissen have gone and done this on his own?---He would not have done it without communicating with me.

10

MR STRICKLAND: Without communicating to you?---Yes, with me, yes.

Now if you go to the, the next email which begins at 215 and Peter Roche has written to Tony Theissen and copied you in, we've committed to 100 housings et cetera, et cetera. If you just read that line, please. And then just go over the page and read that sentence. Now the housings relayed to the housings of the cameras in the Art Gallery. Correct?---Correct.

20

And the reference to a \$20,000 problem in Peter Roche's problem refers to the fact that due to the actual cost of the housings and perhaps the extra time spent in relation to them, it's gone \$20,000 over budget. Is that how you understood it?---It's not my recollection of the, of the occurrence.

You tell me what your recollection is?---My recollection was that there was something which was omitted from the project price. We priced the project based on quantities given to us and I believe something was omitted from that.

30

THE COMMISSIONER: Omitted in the specification?---No, just in when the integrator gave us the final quantities of product that were going to be supplied or going to be quoted - - -

So Kings had left out something?---That's correct, yes. But they were of the opinion that the, the figure, the 725 should have been inclusive of whatever was required to fill the job.

40

So when, when – if you look at 216 and it says, “as per the conversations between Paul and Charlie, the housings are over and above the agreed 725ks price likewise”?---Correct.

Those are conversations between you and Diekman are they?---Correct, yes.

And you were right people to talk about that because you are the head person of Q Videos in Sydney and he's the man at Kings who's dealing with it?---That's correct.

And he was saying to you or you were saying, you were saying to him if you want \$20,000 extra you've got to pay for it and he's saying no I don't want to pay for it?---That is correct.

MR STRICKLAND: And by the way do you recall, and if this email assists you, when the Endura 2 product was actually installed in the Art Gallery? ---I don't recall. I believed it was around the middle of the year, around June/July.

10 THE COMMISSIONER: So if you look at, at Mr Roche's email at 215 when he says, "When did we decide to allow Charlie and Paul to influence the direction of this project and the make up of the equipment," he is saying to Tony Theissen when did we decide to allow Charlie Diekman and you, Mr Thompson, to influence the direction of the project. What justifies a remark like that?---That's a, I believe Mr Theissen and Mr Roche had a dry sense of humour relationship and I believe that was meant as humour.

I see. And that's, he says, We've committed to a hundred housings, he's bought it and that he says, in other words Kings have bought it coming from
20 the People's Republic of China but is that, why does he say from the People's - is that not through Q Videos then?---I don't believe, I believe there some peripheral products that we didn't supply and these may be part of them but I'm not a hundred per cent certain.

But do you get your products, do you get your housings from China?---We did buy some from China yes, the, the industry generally buys them from China.

30 But this looks as if, this is a separate order by Kings in the sense that its separate from the orders they placed with you because he's saying we've committed to a hundred housings coming from China?---Mmm.

He's not saying we've committed to a hundred housings coming from you? ---I, I, I believe and it's just my recollection, I believe that they did source housings from another supplier and not from Q Video Systems and that's what this is referring to.

40 So on what possible basis could it be suggested that Q Videos had to pay for this?---That doesn't make any sense.

Can you remember?---No, no.

MR STRICKLAND: Did - - -

THE COMMISSIONER: So he's really - - -

MR STRICKLAND: Sorry.

THE COMMISSIONER: He's really asking for help, he wants to get some money from somewhere and he's asking, he's asking for someone to advise him where can Kings get the extra \$20,000 from?---Correct.

Yes. And then you see Daniel Paul's email at the top?---Indeed, I do.

What's that mean?---I believe it was a joke.

10 Yes. What's the joke?---Not a particularly funny one but - and I have to say I don't really get it.

You don't get the joke?---I don't really get the joke, no, I don't - - -

Well, I'm so glad you don't get the joke because I thought I was alone?
---No, no, I genuinely believe it was but not funny and I didn't get it.

20 Why do you think it was a joke?---Because I knew some of the, the background which it really didn't have anything to do with the Art Gallery, it was a dispute between Kings and Q as to who owed what but I believe it may have been slowing the job down so Dan was just trying to bang heads together to get it moving forward.

It doesn't mean that?---It certainly doesn't.

30 There's only one way that I can imagine, please correct me if I'm wrong, of the problem being solved if the \$20,000 was increased to \$50,000 and spread around, that would mean that, it means that the Art Gallery would be told there was another \$50,000 to pay, Q Videos, Mr Paul and King would all confirm this to be the case, the 50,000 would be spread around and it would all be okay. Isn't that a possible meaning there?---I don't believe it's a possible meaning because I don't believe that's what he intended to say and I don't believe - - -

Isn't that the ordinary English meaning of what he said?---It doesn't make sense what he said but I don't believe that's what was intended.

Why don't you believe that?---Because I knew a little of the background.

40 What part of the background is there that discounts that meaning?---The fact that it was an argument between Q and Kings which I believe was resolved by Kings purchasing the product in the end and not charging the Art Gallery so - - -

Why did you do that?---Because I think we were in the right, we'd priced them based on the quantities they gave us and anything additional was their problem.

You mean Kings bore, Kings bore the \$20,000 loss?---I believe so. I don't - the problem is I don't believe.

That, that just means that no-one was prepared to go along with Daniel Paul's proposal?---I don't believe it was a serious proposal.

All right.

10 MR STRICKLAND: Who actually provided - which company who or entity provided the (not transcribable) to the Art Gallery?---I do not know.

Wasn't it Austar?---I honestly don't know.

Do you understand in relation to the email at the top of the page what Mr Paul (not transcribable) said I could see the sharing of money might quieten down this little fracas quite quickly?---I don't understand what he was trying to say by that, no.

20 THE COMMISSIONER: Well it had to do with sharing of the \$50,000 'cause that was going to be spread around. It's obviously that?---As I said I don't believe that he was seriously suggesting that.

MR STRICKLAND: Did you ever talk to anyone about this email?---No. I mean, no not - I don't recall talking to anybody about it at the time, I just discounted it.

THE COMMISSIONER: You just ignored it?---Correct.

30 You weren't a volunteer?---No, certainly not.

MR STRICKLAND: Do you during this Art Gallery Project - I mean the Art Gallery Project went on all through 2009 didn't it?---I believe so, yes.

Did you regard Mr Paul as being a loyal supporter of QVS?---Yes.

In what way?---I think he always gave us an opportunity to put our products and services forward and to work with him in any opportunities that might have come out of the market place.

40 And was he a more loyal supporter of QVS than he was of other wholesalers and distributors?---I'd like to think he was a little but based on the efforts that we put in, yes.

Could the witness please be shown Exhibit 80 and Exhibit 82. Now you've seen these two - this tax invoice before, is that correct?---That's correct.

And was it your understanding that Mr Paul rendered an invoice, that is being Exhibit 80, and then later broke those invoices down or, or sent four additional invoices which became Exhibit 82. Is that correct?---Correct.

I'll just take you to Exhibit 82. Do you agree that Mr Paul never actually provided any training of any QVS staff, QVS staff in Perth?---Yes, I do.

10 So he didn't actually deliver the service which that tax invoice represents. Is that correct?---I believe we were, we were paying him in advance for work that he was in the process - well - - -

THE COMMISSIONER: In advance?---Well - - -

Did you say in advance? I'm sorry I'm just asking - - -

MR STRICKLAND: Yes, that's what he said?---Correct, yes, sir, yes.

20 But my question is at the time that this invoice was provided to QVS and at the time it was paid later, Mr Paul had never provided the services that are contained or referred in that invoice. Do you agree with that?---Not, not completely, no.

Well in what way do you disagree with that proposition?---We had been doing training for want of a better word in relation to projects and I guess a direction for the business that would include Perth. And so certainly Perth had been amongst the discussions that I've had with Daniel in regards to this.

30 What do you mean by it would include Perth?---We were looking at a direction to try and focus the business on which would include projects across all markets and in all geographical areas. So Perth was one of those geographical areas and there was to be a lot of business to come from Defence and Mining and Retail on the west coast.

But was there a particular tender submission that related to Perth that you had been working on or Western Australia?---Not at that time, no.

40 Right. All I'm asking you is services that he'd actually done. I'll ask you about the planning of it later, but, so, so in what way – so are you saying that the \$8,250 he charged for training for tender submissions in Perth was to your knowledge at the time you received this an accurate, an accurate account of the amount of services he had done in relation to training for tender submissions related to Western Australia?---Not in relation to services done thus far, no.

Right. Well what component, you say some of it was - - -

THE COMMISSIONER: No, no I don't think so, he said none of it was at that time?---Not at that time.

MR STRICKLAND: None of it?---No.

I see. So, well then I'm sorry I don't understand how is it then that you disagree with the proposition that the services referred to in this invoice were actually performed?---I believe that this invoice was a spreading of costs over cost centres within our business, geographical rather than having it fall on one branch, as the work that I was doing with Dan was to be a national project. When I say project, a national training and campaign for being more successful at tenders. And that work included work that would be done in Perth. But it was not relating to any specific one project that was residing in Perth, no.

So the training that he – let's just look at the training he actually did. He did train you. Is that right?---He did, yes, yes.

And what did the training actually comprise precisely?---Well the idea which I had, which I now regret, was basically we were to be focusing our business on being more successful in the projects market. We were to, to really take better packages of information, to integrators to focus responses that we gave to tender submissions which we could give to integrators and help their case. Be more successful in having more integrators working with your products, be more successful in identifying these sort of projects in advance. So it was really a shifting focus and Dan was acting not specifically training as in the strict sense of the word training, but in, in guiding me to focus our sales staff nationally on being more successful in the tender process. There were a number of specific opportunities which were highlighted in this, such as Defence work that was coming up the following year in Western Australia. But it was aimed at tenders generally.

Okay. So he was guiding you about a national strategy so that the Q Video national staff, that is staff in another state could train integrators in relation to tenders. Is that right?---Correct. Correct. Correct.

But you're only, you're only a New South Wales manager?---But I was in charge of marketing nationally, so I looked after strategy basically for advertising or promotions or way of growing the business and it was a brainwave that I'd come up with.

Yes, but given it was a national strategy, that's something you would have to have coordinated beforehand with head office in Melbourne isn't it?---I would have communicated it to Melbourne, correct.

When?---I don't recall specifically.

Well when you say you would have did you?---I'm sure I did. But I don't recall specifically.

THE COMMISSIONER: To whom? To whom?---It would have been to Rick and to other staff members there, but certainly to Rick.

MR STRICKLAND: And you're saying you communicated this idea, that Mr Paul would train you and other national staff for - as part of the national strategy to train integrators. Is that correct?---Correct.

10

And you did that before the training was actually undertaken, is that right? ---I believe so, yes.

Well did you - were you present when Mr Stokes gave evidence?---I was.

His evidence was that he had never heard of the training that was reflected in these invoices until early September when either you or Mr Paul or his chief financial officer spoke to him about the invoices. You heard that evidence?---I did hear that, yes.

20

And that evidence was unchallenged wasn't it?---It was.

But you said that was wrong?---My recollection and I, I, I don't recall an exact conversation with Rick telling him but I cannot believe that I wouldn't have mentioned it to him.

You say you cannot believe you wouldn't. That doesn't mean you actually did?---No, I have no evidence that I did but I'm sure I did.

30

I see. And did you have an agreement with Mr Paul as to how much he would charge for the services he was planning to perform?---Yes.

And was the agreement in writing?---I believed that there would have been an email but nothing's come up in these proceedings so I don't recall an email, no.

And was the, was the basis of his charging a lump sum or was it an hourly rate?---It was a lump sum.

40

And, and what was the lump sum agreed?---It was \$25,000.

And if you continue to go through these invoices at Exhibit 82. One to Perth, one to Queensland, one to Victoria, one to Sydney. You say that he gave you some guidance but it was also payment in advance, is that what you say?---Correct.

So some of it was for payment that he actually had - services he'd actually perform vis a vis you, is that right?---Correct.

And some of it was for advance payment for services - - -?---It was a - - -

- - - he had not yet rendered?---Correct.

What component of the 25,000 was work he had actually done?---I hadn't really considered as a percentage but we probably had only done 10 or 20 per cent of the work and I'm approximating that.

So you paid a 80 to 90 per cent in advance?---Correct.

10

And you were there for another year weren't you?---I was indeed.

Well, when did you require him to perform the other 80 or 90 per cent?---I intended to have that done before the need of that year 2009.

Well, but you didn't did you?---No, that is correct.

And you didn't until - you didn't between January to September 2010 did you?---No, that's correct.

20

There's not a, there is a not a single document that has been provided to the Commission, not a single email, a single note, a single piece of correspondence where you have or anyone at QVS has asked Mr Paul to complete the training for which he rendered an invoice for \$25,000?---That is correct.

Well, did you ever ask Mr Paul to refund 80 to 90 per cent of that 80 - of that \$25,000?---No, I did not.

30 Have you - - -

THE COMMISSIONER: Sounds like a present to me?---It wasn't.

MR STRICKLAND: How can you possibly justify paying \$25,000 for a payment that you say was in advance when for some fifteen months you never asked him to perform the service and you never asked for any refund? How can you justify that?---It's not really an acceptable thing to do, and I was intending to finish the, the project that we started but never got around to it.

40

THE COMMISSIONER: Did Mr Paul ever suggest to you look, it's time for me to go and fly off to Perth or to Brisbane or somewhere else and why don't you arrange it just so that I can, I can perform my side of the bargain? ---I do believe he suggested not necessarily flying it that way but suggested carrying on with the works from time to time but I was either too busy or it wasn't convenient.

You prefaced that by saying you believe?---I don't recall the exact conversation, sir.

But do you recall a conversation?---I'm sure, I do recall one vaguely but I don't know when.

You did say I'm sure, I thought you were going to say you can't recall but you're sure there was one?---Yes, I, I can't recall the specific one but, yes, I apologise.

10 MR STRICKLAND: Well, you see in - if the witness could be shown Exhibit 81, please. These are text messages that have been sent by Mr Paul, sent to Mr Paul on 2 September 2009 and I want you to assume as at, as at that date Mr Ballesty was not employed by QVS. Do you accept that?---I do.

And what is referred to in the left-hand column as Brad Ballesty is in fact a reference to you?---Correct.

20 So if I can just take you to the first Brad Ballesty call, you received a call from Mr Paul saying,. "Tommo, can you please call me please, I just got a message from Rick and I'm annoyed." Do you see that?---I do.

And did you call him?---I don't recall, I presume I would have done but I don't recall.

THE COMMISSIONER: Well, you promised to?---I did, yes.

30 MR STRICKLAND: He's replied saying, "Totally understandable, will call after breakfast." That was sent at, sorry, that was sent at, it appears at 8.02pm, do you see that?---I do.

So do you recall having any conversation with Mr Paul about the text message he'd sent to you?---I don't recall the conversation, no.

Do you recall having a conversation with Mr Stokes about the \$25,000 invoice?---I vaguely recall it, yes.

All right. And what's your - - -

40 THE COMMISSIONER: Was Mr Stokes annoyed?---He was a little annoyed, yes.

What was he annoyed about?---My only recollection of it was the fact that he didn't want to pay one invoice in one lump, in one hit and that he wanted it to be spread across months and also states to, to minimise the impact on the cash flow of the business but that's my only recollection.

MR STRICKLAND: Well, isn't it the case that he also asked you about what the \$25,000 invoice was about?---I don't believe so, I think he already knew.

Well, was there any conversation at all?---At that time I don't believe so.

Mr Thompson, do you remember your lawyer got up and asked Mr Stokes some questions? Were you, were you in the Commission here when he - - - ?---I was, yes.

10

And he asked a, do you remember the question he asked Mr Stokes?---I do.

He asked Mr Stokes whether he agreed with the proposition about, that he had been told by you about the fact that the invoice reflected payments in advance, do you recall a question of that nature?---Yes, I do.

Well, are you saying that you can't recall having any conversation of that nature with Mr Stokes?---I don't recall the conversation with Mr Stokes, correct.

20

Notwithstanding that your lawyer put that question?---I believe I was a little unsure as to the difference between works completed and works in progress because I was of the opinion that Rick still realised that it was work that was ongoing, not work completed.

Well, you've heard Mr Stokes give evidence about the conversation he had with you?---I did.

30

He was specifically asked whether you had told him that the payments or the invoices represented payment in advance?---Correct.

And he denied that, he denied you telling him that, do you recall that? ---Yes, I recall that.

Because assuming he had asked the question what are the invoices for, what's he done for them, then it would be a certainty wouldn't it, that you would have told him well, in fact 80 or 90 per cent of them is for work that hasn't even been done yet?---I do not - - -

40

If he had asked the question I'm saying you would have told him the truth wouldn't you?---Of course.

Isn't it the case that this \$25,000 invoice had, was not related to training services that he had done or promised to do?---No, that's not the case.

Isn't it the case that that \$25,000 was a payment authorised by you in return for favours or assistance that Mr Paul had provided to your company?---No, that's not the case.

Because you were, your pay was to a large extent commission based wasn't it?---Correct.

You benefitted personally from the Art Gallery contract being awarded to – you benefitted personally from the sales generated in relation to the Art Gallery contract didn't you?---I did, yes.

10 Can I just show you this document, please? And just have a look at – I'm not suggesting – all I want to ask you is whether this accurately reflects the salary structure you had in 2008/2009 and then over the page in 2009/2010, 2010/2011?---I believe so, yes.

I tender that.

THE COMMISSIONER: What do I call it?

MR STRICKLAND: I think you'd call it an amendment Q Video employment agreement with Paul Thompson.
20

THE COMMISSIONER: Exhibit 133 is the amendment to Paul Thompson's employment agreement with Q Video.

**#EXHIBIT 133 - AMENDMENT TO PAUL THOMPSON'S
EMPLOYMENT AGREEMENT AT QRSCIENCES SECURITY PTY
LTD**

30 MR STRICKLAND: Mr Thompson, did you have any discussions with any other people in any state in relation to this so called national training strategy?---None that I recall, no.

Well wouldn't that be something you obviously would have done if this was a genuine plan for a national training strategy?---I would have expected so, but I don't recall having conversations.

40 So not a single conversation you can recall between June 2009 and when you left the employment of QVS in September 2010?---None that I can recall.

You sure this just wasn't, are you sure this just wasn't some bogus plan you had to justify a payment to Mr Paul?---Definitely not.

I mean there is no paper supporting it is there?---No.

There's no discussion you had with any national manager is there?---None that I can recall.

THE COMMISSIONER: I'm trying to understand this Mr Thompson, I gather from these figures, leaving aside options, you were earning a gross sum of something like \$256,000 a year at the time. Is that right?---I think it was a little lower on the other ones, but certainly in that, that area.

So I mean for you a payment of \$25,000 to somebody else would be quite a large sum. I mean I think it would be for anyone?---Indeed.

10 I only mention your salary because I really represents just about a tenth of what you earn in a year?---Correct.

And I'm trying to put myself in your place which is always a very difficult thing to do, but what I can say is that if I'd done that on the basis that the person concerned was obliged to do, render services in return I just can't imagine just letting it lie. There must have been something else involved. I mean were you too busy or, or what was it?---I believe I was too busy. I believe I started to lose a little bit of interest in the business towards the back end of that year. I expected to be chastised and asked where were the
20 results of all of this investment but I think Rick was probably also too busy to go back and refer to it. So it sort of just drifted on.

All right.

MR STRICKLAND: Could the witness please be shown Exhibit 125. Do, do you recognise this invoice?---Only from today's proceedings.

Are you aware of any training that Mr Paul conducted for QVS in 2010?
---No.

30 Do you know what the reference in the description to "stage 4 of 7 training for tender submission Sydney July 2010" refers to?---I don't recall, no.

Did you have any discussions with Mr Paul about him providing training for tender submissions in 2010?---None that I recall.

THE COMMISSIONER: So what, what was this about?---I honestly don't recall it or anything surrounding it, today was the first day that I'd heard about it.

40 You see it's got "Contact Mr Paul Thompson"?---Indeed.

But nobody got in touch with you about it?---No.

Could the witness please be shown Exhibit 83. Again it has you as a contact. Do you recall receiving this invoice, that's invoice 31207, 3 December, 2007?---I don't recall it specifically.

Do you know what it was about?---Ah - - -

Do you know what, do know what the work was supposed to be about?
---I, I don't know what this relates to specifically, no.

If you go over the page, invoice 20608, 2 June, 2008, again you're listed as the contact, do you know what that invoice related to?---Other than discussions that I've, I've overheard today, I don't recall what this was specifically in relation to.

10

If the witness please could be shown Exhibit 127. This is an invoice which attaches the \$25,000 invoice, the total being if you include GST 27,500, I just want to draw your attention just to one part of it and you to Mr Stokes on 3 September, 2009 which is the head of the last email in the chain, you've written, "How's this for funny?" What are you referring to there?
---I have no idea.

20

THE COMMISSIONER: Well, it sounds, I mean one, one possible meaning is that you thought the invoice was funny?---I don't believe that was the case, from reading it you could conclude that but I do not recall.

I mean, one possibility is you thought that Mr Paul sending you this invoice and hoping to get payment from you was a funny thing?---I honestly don't recall what I was meaning.

Well, what, what else could it mean?---I, I do not know.

30

If the witness could be shown Exhibit 129, just go to page 2 of that email. You've written to Tony, is it Lagan, is that how I pronounce the name?
---Lagan.

Lagan and which company does he work for?---At the time he was working for Sony.

And you said, "Hey, mate, can you just confirm the price and the model of the projector I'm ordering" and then he writes back referring to the model, the purchase price and what the normal price is, \$9,000. So you were ordering a Sony projector for Mr Dan Paul, is that right?---Correct.

40

And Q Videos was going to pay for that?---That I don't recall, I do recall Dan asking for the, the details and the price on it but my recollection is he was going to pay for it.

All right. Are you wanting to know what exhibit - - -

THE COMMISSIONER: I don't think I've got that invoice.

MR STRICKLAND: I can assist, excuse me. What I'll do - - -

THE COMMISSIONER: That can be dealt with later.

MR STRICKLAND: I'll go from exhibit, perhaps the witness can be given Exhibit 130 and then I'll - what you've got, Mr Commissioner, is Exhibit 130 and it's the same email we've just, the same email chain with just one extra email.

THE COMMISSIONER: It can be rectified later.

10

MR STRICKLAND: Just so everyone's following it. I'm sorry, I beg your pardon, we have 130 but I will ask you about Exhibit 129, I'll give you an extra copy of 129. So you've got a copy, Mr Commissioner, and the witness now has a copy of Exhibit 129.

Well, if I just take you to your 29 July, 2010 email to Mr Lagan, there's no doubt that you have ordered this Sony projector, haven't you?---That is correct.

20

And it's not a personal order, it's the company QVS ordering it, correct? ---Yes.

You've heard Mr Paul give evidence today that he understood this was something that was provided to him by either QVS or Sony, do you understand that?---I do.

And you're saying it's a surprise to you, is it?---Yes, it's not what I recall.

30

Okay. Well, Mr Komala, I beg your pardon, Mr Stokes at the very first email, I beg your pardon, the email on 24 August which is at the bottom of page 1 you write to Mr Komala saying, "Can you get ready to order the item below" and Mr Komala was in the accounts division was he?---He was in charge of purchasing.

In Victoria?---Correct.

And then Mr Stokes at the top email on the following day emailed you saying, "Can you let me know about this one," copying all the previous emails, correct?---Correct.

40

And what did you tell him?---I don't recall. It would no doubt have been to, to get it in for Dan but the circumstances or the content of the conversation I'm not sure what it would have been.

Well, Mr Thompson, why did QVS order, forget paying for for the moment, why did they order a Sony projector for Daniel Paul valued at \$9,000 with a purchase price of \$5,000?---Oh, I believe that people had asked us to order

product in the past, if we could get it at a better price than them, if it was something they couldn't buy by other means.

You're not answering my question. I'm not asking about people in the past, just listen to the question. Why, why did you order, arrange for the order of a Sony projector for Daniel Paul in July 2010?---It would have been because Daniel wanted one.

10 Right. And do you give him everything he wants?---No.

Right. Well, why did you give him or why did you arrange for him to be provided with a Sony projector in July 2010?---My recollection is that he was going to pay for it.

That's not my - I want you to answer my question - - -?---Sorry.

- - - because I will keep asking it until you provide an answer?---Sorry.

20 I'll ask it again. Why did you provide a Sony projector to Daniel Paul in July 2010? I know he asked for it, why did you do it?---I don't believe we provided him one in July.

THE COMMISSIONER: Did you provide him with one at all?---Not while I was with the company, no.

MR STRICKLAND: Well why did you arrange for the order of a Sony projector which you know, knew was going to be given to Daniel Paul in July 2010?---I don't believe I knew it was going to be given to him.

30 THE COMMISSIONER: What did you think was going to happen to the order for which you had arranged?---My recollection is that he would have paid for it, but I was leaving the company at the time, I didn't really care, as irresponsible as that sounds.

MR STRICKLAND: Was this a gift – you were arranging a gift for Mr Paul in exchange for assistance and favours that he had given the company which benefitted you personally. Isn't that right?---I don't believe so, no.

40 Well you say you don't believe so is that a reasonable possibility though? ---It is a possibility, yes, but I, I don't believe that was the case.

THE COMMISSIONER: Where were you going? Had you fallen out with Mr Stokes?---No, we hadn't fallen out, no. I thought I left on reasonable terms at the time.

And where were you going?---I was going to work for a company called BGW Technologies.

And Mr Paul would have been important to that company?---To BGW Technologies?

Yes?---Possibly yes, yes.

MR STRICKLAND: Did Mr Paul continue to assist, what is it, B sorry?
---BGW Technologies.

BGW?---Mmm.

10

Did Mr Paul continue to – did Mr Paul do work with BGW Technology after you had gone to that company?---We would have had communication with him but I don't believe we did any significant work at all with him.

Did you make statements or representations to Mr Yallouris that you would be able to get work where Mr Paul was the consultant?---No.

Not at all?---No.

20

Could the witness please be shown Exhibit 120. Do you recognise that as an email you wrote to Mr Paul?---Yes, I do.

And in the fourth paragraph of that email you say, "in relation to rebates on products purchased for the project", you can see that relates to the Art Gallery project from the second sentence, "we have been in discussions, we have been in discussions with manufacturers of the products we represent and we can confirm that Q Video Systems will be able to offer rebates on some or possibly all products being proposed." Do you see that?---I do.

30

And do I take it that you personally had been in discussions with, with the manufacturer of the product, ie Pelco?---I don't believe we would have been in discussion with Pelco. I think that's probably just the repetition of a bit of sales rhetoric, Pelco didn't give rebates that I'm aware of.

Well what do you mean sales rhetoric? It's either, that is either a true statement or it's a false statement. Is it, is it a false statement that we have been in discussions with manufacturers of the products?---I think it is a false statement, yes.

40

So why would you send an email with a false statement?---Probably just to try and make it sound good, but it was a false statement which I obviously regret now.

Well is that dishonest thing to do?---I don't believe so because the, the bit that he would have been concerned about for his client would have been the warranty, if there was any additional warranty.

But - - ?---And sorry may I say, we would have been in consultation with Pelco about extended warranty, but just not rebates.

THE COMMISSIONER: But you heard Mr Stokes say that you had an agreement with some about, some manufacturers about a five per cent rebate?---Correct.

And do you agree with that?---With manufacturers?

10 Yes?---We had agreements with manufacturers for additional discounts on certain things yes, yes.

Five per cent?---I apologise I don't remember the context of that sentence that he said this morning.

He said that there were rebates that were provided to, I can't remember whether the said all consultants or only Mr Paul in relation to certain commercial contracts?---I think he was talking about to Mr Paul for other commercial contracts.

20

Yes, yes?---Yes.

Well isn't this just an extension of that?---This is - - -

Isn't this Exhibit 120 simply an extension of that agreement?---No, this is completely different.

Why is that?---This is purely in regards to what, what Q Video Systems might be able to offer to the Art Gallery.

30

Where does it – well just in relation to the Art Gallery, but who is the, who are the rebates being offered to?---The Art Gallery.

Where does it say that?---I think it's probably a bad word there, it should say to and not for the Art Gallery project, but I always took this to believe that this was purely for the Art Gallery. And I believe it was in response to a document that specifically said that rebates to be offered to the Art Gallery and extended warranties.

40

I mean this is open to the construction that the agreement was to pay Mr Paul just as much as open to the construction matters and agreement to pay the Art Gallery. It's just not clear, it's ambiguous?---That is correct.

Why did you write the letter to Daniel Paul? Was that because all your dealings were with him?---No, this was in response I believe to an official request to us and I believed other suppliers to detail what additional benefits we could offer the Art Gallery in regard to rebates to the Art Gallery or extended warranties.

I see.

MR STRICKLAND: So Mr Thompson, you made a false statement about representing what Q Videos will be able to offer the Art Gallery before the contract was, before the Art Gallery made a decision on its contract. Is that correct?---No, I don't believe that was a false statement.

10 I thought you said it was. I thought you just told us that it was a false statement to say we have been in discussions with manufacturers of the products and we can confirm that Q Video Systems will be able to offer rebates on some or possibly all products, you said that was a piece of salesman pitch and it was inaccurate?---My apologies, that was my fault for not making myself clear earlier. I mean in regard to being in communication with, with manufacturers but - - -

THE COMMISSIONER: Well does this mean that Q Videos would pay the rebates?---Correct.

20 Not the manufacturers?---Correct.

And did you – were you authorised to do that?---I was, yes.

MR STRICKLAND: Did you ever, did you ever pay any rebates?---On the Art Gallery I don't believe so, no.

Well you made a representation that you will be able to offer them?---Yes.

30 So why didn't you honour that offer?---Nobody asked for them.

Well it doesn't say in this email that you will be able to offer them if requested does it?---No, that's correct.

It doesn't make it a condition of the offer that there must be a request does it?---That's correct.

40 So why in that case didn't you honour what you had offered to do?---I actually believed that this was probably the first of a number of communications that once the final product range was settled down we would be a bit more specific about which products we could offer the rebate on and what that percentage would be 'cause I was a little vague on that in this. But no more communications or conversations came.

THE COMMISSIONER: Well was this for Pelco or Verint or both?
---Whichever product. All products that we supplied and of the 700 and somewhat thousand not all products were Pelco.

MR STRICKLAND: So you had no further discussion with Mr Paul after this email about the question of rebates. Is that - - -?---Correct.

And obviously no further discussions with anyone from the Art Gallery?
---Correct.

By the way when you went to BGW isn't it the case that BGW distributed Moog, that's M-o-o-g cameras?---Yes, we were, yes.

10 And you distributed them for The Gap Park CCTV project didn't you?---I didn't know that they were for The Gap. I know we did sell some but I don't know what the project was that they went for.

Okay. I tender a – this is in relation Commissioner, to a question I asked some time ago, 10 or 15 minutes ago about who, housings – which company provided housings. Mr Thompson is not copied into this email. But I'll tender it at this point in any event. An email from Mr Ciot, C-i-o-t, to Mr Roche dated 29 June, 2009?---Thank you.

20 THE COMMISSIONER: Exhibit 134 is an email from Mr Ciot to Peter Roche of 29 June 2009.

#EXHIBIT 134 - EMAIL FROM MR CIOT TO MR ROCHE OF 29 JUNE 2009

MR STRICKLAND: Yes, thank you, Commissioner, they're, they're the questions I have.

30 THE COMMISSIONER: Are there any questions for Mr Thompson? Mr Lloyd.

MR LLOYD: I think it's usual, Commissioner, I'll have some questions. I'll try to keep them as quick as possible.

Mr Thompson, I'm asking questions on behalf of Daniel Paul. I'll try and work backwards, that is ask you questions on your latest evidence through to your earlier evidence. Most recently you were shown Exhibit 120.

40 Whilst you have that in your hands I want to show you Exhibit 91. Now your evidence was when questioned about 120 that you thought that was in response to a request. The question I want to ask you when looking at 91, forget the top email on 91 but you see the email the third of the way down Exhibit 91 where we have an email from Daniel Paul to a variety of corporate entities there being you from QCCTV and it's copied to persons from the Art Gallery as well. We know AT is Anne Tregeagle and we know Tony M is Tony Morris and it makes the request seeking confirmation of support guarantee in particular for two items warrantees and then rebates

and you'll see that under the rebates part it says rebates will be claimed directly by the Art Gallery? Is that the request you were responding to?
---Yes, it is.

You were taken to an email, Exhibit 2 tab 28 or R28. And you'll recall obviously being taken to that?---I do.

10 And you said you regarded the final email in the chain which is the, the first on these pages as a joke, although you said difficult to understand, you said you knew that from the background.

THE COMMISSIONER: You knew that from the way, I beg your pardon?

MR LLOYD: Background.

THE COMMISSIONER: I'm sorry, I didn't hear. From the?

MR LLOYD: Knew it from the background.

20 THE COMMISSIONER: From the background.

MR LLOYD: The background at that time or words to that effect. Is that fair?---Yes, that's fair.

I want to suggest to you that that meant to you there was no way was Daniel Paul going to have the Art Gallery paying for that?---That is correct.

30 You were taken to Exhibit 74 in particular the last of these three pages which is numbered in the top right-hand corner at 539. You said you didn't recall the conversation or how you felt about it.

THE COMMISSIONER: Which conversation, Mr Lloyd?

40 MR LLOYD: That is the conversation that's referred to in the - about five lines down on page 539, that is, "Spent a couple of hours with Dan today", and it goes on. "He likes the idea of option 2 very much, he will accept a proposal where we put a fixed camera in", and it goes on. "He's still hoping that Kings or Tony get it but seems to be leaning towards Kings." Now the word 'seems' I want to suggest to you is an expression of an opinion by you. Is that fair?---Yes.

You're not saying there that's what he said. I want to suggest to you that that may be something you've gleaned from something he said. Is that fair?---That's possible, yes.

It may have been your impression that in fairness to Mr Paul it may not have been what he actually said. Is that fair?---That's fair, yes.

That could be returned. It was suggested to you if you knew the products specified in the tender specifications was Verint and you said, "I believe so." I want to suggest to you that what was specified was Verint as a benchmark but that other products of equivalent performance would be considered or words to that effect. Is that fair?---That is correct, yes.

10 You were taken to Exhibit 65 tab 15 an email to Tony Theissen some budget sheets and you said in response to a question that you didn't believe that the obtaining of those sheets gave QCTV any benefit on the total project and your ability to win it.

MR STRICKLAND: I object. I think that is not a complete summary of his evidence. So I object on that basis.

MR LLOYD: If somebody can read back the question and the answer that you gave I'd be grateful (not transcribable)

20 MR STRICKLAND: Well there's - that, that was, that was - there's no transcript at this stage, I can't read anything back but my understanding of the evidence and I may be incorrect is that after you, Commissioner, asked some questions he then conceded that the provision of the budget was of some assistance.

THE COMMISSIONER: He did, he did, however start off by - he started off by saying what you've put but he then recanted.

MR LLOYD: This is near the middle of it.

30 THE COMMISSIONER: Near the middle of it.

MR LLOYD: That's something he said, I want to ask him what he meant by that and I submit he's entitled to give a response.

THE COMMISSIONER: You can proceed.

MR LLOYD: Did you hear my question?---I'd like you to say it again if that's okay, please.

40 Now, this is a rough note. Okay. It was suggested to you by I think the Commissioner that bearing in mind the significance of upper limits and lower limits on those sheets - - -

THE COMMISSIONER: There are no upper limits or lower limits on the sheets, that's not the suggestion.

MR LLOYD: Well, upper and lower limits.

THE COMMISSIONER: The suggestion was that bearing in mind the upper limits and lower limits that could be determined as a result of the information given the information is a significant help.

MR LLOYD: Okay, thank you, Commissioner.

And you said you didn't believe it gave your company any benefit - - -

10 THE COMMISSIONER: No, I'm sorry, the problem is that that's not at the stage that Mr Thompson said that he didn't believe that it gave him a benefit. It wasn't at that stage that he said that. He said, he was asked the straight question whether he thought that the budget, the giving to him of the budget information provided him with a benefit and he said no and, and he, I'm not sure whether he said not according to my understanding, that's your note is it, Mr Lloyd?

MR LLOYD: That's my note.

20 THE COMMISSIONER: Well, he may have said that, I then asked him a number of questions and then he accepted that it did provide, I will put it as neutrally as possible, it wasn't his word but I'll use the word a benefit, so that is how I recall the sequence of the questionings on that issue, you're at liberty ask a question bearing that in mind.\

MR LLOYD: But it seems to me you gave different answers at different times and I want to clarify - - -

30 THE COMMISSIONER: Well, I've told you, I've told you the sequence, that's my recollection of the sequence. He started off by saying it gave no benefit and he ended up by agreeing it gave a benefit.

MR LLOYD: Well, let me ask him.

Now, did it give you a benefit or not?---Yes.

In what way?---It's always I believe a small benefit to have an indication of what's going on, any information that you can glean on any of these things is of some benefit.

40 Okay. Bearing that in mind I'll ask you two issues about the email. Taking you to the face it says about halfway down, "do not email this around" in caps. What did you take as the meaning of that?---That email wasn't to me but I would expect that it would mean it was between us or between the parties on that email certainly.

Confidential?---Yes.

Mr Paul says in here "We are 300K over right here" and I don't know whether you were in this hearing room when Mr Paul gave evidence about

this email but he said in putting that in he was foxing, that is, he wasn't 300K over but he was wanting the recipient of the email to think that in order to drive the price down. Now you were questioned on this although it wasn't sent to you but bearing that in mind would it give you an advantage or would that influence you to reduce the price?---I don't believe that it would have had any impact on us on the pricing, I think that's more meant as to the configuration of the product for the solution, find another way to fix the, the job technically rather than price.

10 THE COMMISSIONER: What is not, sorry, what - - -?---The fact that, if I may, the fact that Dan is talking about being \$300,000 over the budget, I think that's more of a reflection on the technical solution not being within his realm, he's not trying to drive us down on price because price and what we're prepared to sell at or, or dropping our price isn't part of that conversation.

MR LLOYD: Now at this time in late October '08 as I understand it in relation to the Verint you were a supplier as were other companies in Australia?---Correct.

20

Another company being Annixter?---Correct.

And was it the fact that whatever price you gave to integrators they could approach other suppliers to get a better price?---Correct.

In that way do you gain any benefit out of getting the budget?---Not a major benefit.

30 And Pelco products as I understand it were also available from others in the market place?---Correct.

Including Pelco selling directly to integrators?---Correct.

And a major company Hills (not transcribable) also selling to integrators? ---Yes.

40 THE COMMISSIONER: But you were dealing with Q - Mr Paul was dealing with you because you had a longstanding relationship with him? ---In this particular instance I believe so. I do believe he also dealt with all of those other companies from time to time as well.

MR LLOYD: Indeed. Is it fair to say that it's normal practice for you as a supplier of products to work together with consultants in assisting in the writing of specifications and formulation budgets?---Yes.

Happens all the time in your industry?---Often, yes.

Is it fair to say it's normal for suppliers or potential suppliers to attend product shoot outs in order that their product may find its way into a specification?---Yes.

Nothing unusual about that?---No.

10 THE COMMISSIONER: Would you say that it's usual in your industry for a consultant to a particular employer to provide the supplier a supplier with a full detailed budget that he's working on?---It's not common but it's not uncommon, it does certainly happen and has happened to me on other occasions with other parties, yes.

Do you think that's, that's perfectly good practice do you?---I've never considered it before this occasion and I can understand how it does get some scrutiny but I didn't believe it was a problem.

MR LLOYD: But did you keep the information in confidence that you'd been given?---I believe so, yes.

20 THE COMMISSIONER: It was only for your benefit it wasn't for anyone else's?---Correct.

MR LLOYD: And looking at the budget - let's just go to the first page annexed to tab 15 of Exhibit 65. Do you see the items listed on the left-hand side? There is some cameras and then there's Verint software, hardware, miscellaneous equipment and you look at the materials, I take it there the prices of each of those items. Correct?---Yes.

I take it Daniel Paul would have got those prices from you?---Yes.

30 So the budget very much reflected prices that you'd given him?---Yes.

And in effect the budget contains no more than information you'd already given him?---Correct.

THE COMMISSIONER: So did - is there really a true answer? Honestly is that a true answer?---I believe I was answering the question but I'm not too sure what it meant.

40 MR LLOYD: I don't want to trick you (not transcribable)

THE COMMISSIONER: Just a minute, Mr Lloyd.

Did Mr Paul get from you the composition of the solution item by item or was it his creation?---I didn't put the budget together - - -

I'm not talking about the budget?---Or that, or that actual - - -

I'm talking about the composition of the solution. By that I mean each particular item?---I don't know the answer to that question 'cause I didn't do it.

10 But what's normal? Are you suggesting that the consultant goes to a supplier and says, look mate, I'm doing this budget and what I'm going to put in the budget, and keep this confidential, no one else knows this, but this is my solution, these are the, these are the specific items I'm going to be purchasing. I'm not going to be purchasing that. These are the items I'm going to need. This is my concept on this issue. This is my concept on the other issue. Now tell me the prices. Now is that something that happens?
---Not quite that way, no.

But isn't that exactly what happens when you get this budget?---What I believe - - -

20 Just answer that question. Isn't that exactly what happens when you are given this budget that we see at Exhibit, at Exhibit 15, tab 15?---My understanding is that is a document we would have given to or filled in to Dan with what we believed were the products he required to achieve what his aims were. So we would have suggested the products - - -

And did anybody, and did anybody else get the opportunity to do that?---I would have expected so, but I do not know.

So are you saying that you gave Daniel Paul the idea to use the products that are listed on the left hand side?---Correct.

30 So what was his job?---To evaluate - - -

As consultant?---To evaluate products.

I thought his job was to prepare the specification and he had technical know how to do that?---Yes, that's correct.

40 And I mean these matters that you are talking about aren't matters that are unusual are they? You'd expect the consultant to know all about them because he's spent his whole working life on these issues?---I can only say there are a lot of products available that can do the things that he would want.

Yes. And by giving you the budget he tells you what he has in mind as being the products that he wants to do the job isn't he?---I don't recall the process and the timing. I don't - - -

But isn't he doing that? Isn't he by giving you his budget isn't he telling you what products he has in mind to do the job?---I don't believe he gave us the budget per se. I think we - - -

But I'm talking – this spreadsheet?---Is I think something that we would have done in conjunction with him, but I don't believe it was handed to us in this way.

But it was, it says there, the email says so?---I apologise. I didn't put the document - - -

10 Well just look at the email at page 263, "Tony, this is the budget spreadsheet I am using"?---Yes, so he has compiled that with items given to him by people such as ourselves.

Yes. And now he's telling you which of those are his preference?---Yes.

That's a benefit isn't it?---It is a benefit, yes.

MR LLOYD: There's just one document I may put to the witness, Commissioner. But I just need to seek reconstructions on them if you would give me that leave.
20

THE COMMISSIONER: Yes. We'll adjourn for five minutes.

SHORT ADJOURNMENT

[3:54pm]

THE COMMISSIONER: Mr Lloyd.

MR LLOYD: No more documents but just a few general questions. I gather in this industry products and technology change quickly, is that fair?
---Correct.
30

And there are a lot of products on the market?---Yes.

And I want to suggest to you that for all consultants preparing tender specifications it's normal for those consultants to approach supplies to get the latest information on the technology that might be specified and to see demonstrations of the technology?---Yes.

40 And in relation to seeing the technology it's also usual for the supplier to go to the place where the equipment's going to be installed to see exactly where it is going to go and what is needed in order better to assist the ultimately client?---Yes.

And I think you said you went to the Art Gallery where you met with Mr Paul and Mr Morris to see what the needs of the client were?---Yes.

And I want to suggest to you you did that on more than one occasion for this project?---I, I would not disagree with you but I only recall one occasion.

Okay. It may have been more?---Yes.

Nothing unusual about that?---No.

One final thing, when you were giving prices to Mr Paul, whether to assist with a budget or not, you were well aware in relation to both Verint and Pelco that you might never as a result of that been the chosen supplier by the successful integrator?---Yes.

10 Nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Lloyd. Is there anyone else who wishes to ask Mr Thompson any question?

MR PATTERSON: Commissioner, I may but with your indulgence I would like access to the transcript overnight.

THE COMMISSIONER: No, we were all here, you heard it.

20 MR PATTERSON: Very well.

THE COMMISSIONER: I mean, is that going to prejudice you, Mr Patterson?

MR PATTERSON: Well - - -

THE COMMISSIONER: I mean it all depends - - -

30 MR PATTERSON: It should not, Commissioner, but having regard (not transcribable)

THE COMMISSIONER: All right. Well, look, it means that Mr Thompson's got to come back tomorrow morning.

MR PATTERSON: Well, it may be.

THE COMMISSIONER: So are you able to come back tomorrow morning?---I am.

40 All right. Is there no one else? All right. Mr Patterson, you've got that - I wish I'd been given that leave when I was cross-examining.

THE WITNESS WITHDREW [4.03PM]

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