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09/08/2012

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pp 01489-01551

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HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

Reference: Operation E09/350

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 9 AUGUST, 2012

AT 10.00AM

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

<PAUL JOHN THOMPSON, on former affirmation [10.01am]

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Yes, thank you. I just have one document I wish to show, Mr Thompson. I'll just show you this - - -

10 THE COMMISSIONER: Mr Dunne, are you - - -

MR DUNNE: Sorry, your Honour, my name is Dunne.

THE COMMISSIONER: Yes, I know Mr Dunne.

MR DUNNE: I'm seeking leave to appear for Mr Dunphy, a witness who will be appearing.

THE COMMISSIONER: Yes. Well, can we deal with that later?

20 MR DUNNE: Yes, thank you.

THE COMMISSIONER: I don't think there'll be a problem but we'll deal with it later.

MR DUNNE: Thank you.

THE COMMISSIONER: Yes, Mr Strickland.

30 MR STRICKLAND: Yes, if I could show you this document, this will become available very shortly to the other parties. I tender an email from Paul Thompson to Terry Yallouris dated 12 February, 2009, attached to it two pages of spreadsheet. That's the only copy I've got for the moment.

THE COMMISSIONER: Yes. Well, Exhibit 135 comprises an email from Mr Thompson to Terry Yallouris of 12 February, 2009 with spreadsheet attached.

40 **#EXHIBIT 135 - COMPRISES AN EMAIL FROM MR THOMPSON TO MR YALLOURIS OF 12 FEBRUARY 2009 WITH SPREADSHEET ATTACHED**

THE COMMISSIONER: Do you want this to be given to Mr Thompson?

MR STRICKLAND: Yes, please, thank you. Copies will be available within a minute. I'll just ask you to look at it and after, once you've examined it I just want to ask you some questions about it.

THE COMMISSIONER: Is anyone here for the Art Gallery because I can see there are, there's material on the spreadsheet which they always object to.

MR STRICKLAND: Yes. Shall I, shall I MFI it at this stage and - - -

THE COMMISSIONER: Well, just ask your questions.

10 MR STRICKLAND: Yes.

THE COMMISSIONER: No, I will grant suppression - the details the third and fourth columns in the spreadsheet are suppressed.

THE DETAILS IN THE THIRD AND FOURTH COLUMNS OF EXHIBIT 135 ARE SUPPRESSED

20 MR STRICKLAND: Is that a spreadsheet that you prepared?---I don't believe I prepared it, no.

Do you know who did prepare it?---I believe it would have been Tony Theissen.

Okay. Did you see this spreadsheet?---I would have seen it, yes.

Commissioner, I'll leave Ms Lonergan to ask questions about Mr Theissen and this document. I have no further questions.

30 THE COMMISSIONER: Yes. Ms Lonergan.

MR STRICKLAND: Does it have a, sorry, did it have an exhibit number?

THE COMMISSIONER: Yes, it was 135.

MR STRICKLAND: Thank you.

40 THE COMMISSIONER: Are you - - -

MR STRICKLAND: I have no further questions.

THE COMMISSIONER: Right.

MR STRICKLAND: The next witness will be Mr Theissen, some further questions can be asked then.

THE COMMISSIONER: I understand. Yes, Mr Patterson.

MR PATTERSON: Thank you, thank you, Commissioner. Mr Thompson, you were shown yesterday document, sorry Exhibit 120 which is an email from Daniel Paul, it's an email from you to Daniel Paul concerning warranties and rebates. Have you got that?---Yes, I have.

10 To the best of your knowledge were any rebates ever paid to the Art Gallery arising from that document?---No.

Yesterday you were asked questions about the national training scheme, to use that term, which was training that was provided to you by Daniel Paul. Do you recall those questions and answers?---I do.

And you described that as your brainwave. Is that correct?---Correct.

20 Would you care to expand upon the origin of that training plan?---It was I guess twofold. As a business we decided some months prior, maybe as early as the end of 2008 that we needed to, to branch out and be more successful in other areas of the market. Remove our reliance on lower cost volume product, be more successful in tenders. And the idea really came to me from something which I'd seen conducted many years before by the Department of Defence for potential suppliers in the form of a, of a training/coaching/guidance system to make suppliers more successful in the preparing of tenders.

30 Thank you. And when you say we decided, you're referring to whom?---It would have been myself and, and Rick and - - -

THE COMMISSIONER: The, what it is I find a little odd about the training, training scheme is that Q Videos doesn't tender does it?---That is correct. But in our role of supporting integrators the idea is to get as many integrators to want to support your product in the tender process. And it is very common for suppliers to do a lot of the response documentation for integrators or to guide them with that or to prepare product information in a certain way so it's got more chance of being successful.

40 MR PATTERSON: And are you able to estimate the – I'll withdraw that. Did you spend any time with Daniel Paul in receiving training from him? ---Yes.

Are you able to estimate how many hours you spent in that exercise?---It really is only an estimate but probably 20, 25 hours, maybe a little more, but I wouldn't be specific.

And was there any connection direct or indirect between that training scheme and the Art Gallery project?---No.

Now yesterday you were asked some questions both by Counsel Assisting and the Commissioner concerning your reasons for not following up with Mr Paul the balance of this training that was to be provided. Do you recall those questions?---I do.

And at page, sorry 1473 of the transcript you said in response to a question from the Commissioner, "I believe I started to lose a little bit of interest in the business towards the back end of the year". Do you recall that?---I do.

10 Would you care to expound upon that answer? Could you tell the Commissioner some more about the circumstances in which you came to leave the employ of Q Video Systems?---Certainly. It was, it was primarily personal. I really wasn't – the role had dual functions marketing on a national basis and state management on a New South Wales basis. I didn't enjoy the state management role. I'm not very good at administration. It wasn't my forte. Enjoyed the marketing but I was in a bit of a quandary because I also didn't really enjoy travelling at that time, family commitments didn't want me, make me to want to go to Melbourne. So I just found myself not enjoying the job at all and, and was staring to think
20 about alternatives.

But it was, it was your intention was it to follow up with Mr Paul the balance of the training?---Absolutely. When it was originated most definitely, but, yes.

Thank you, Commissioner. No further questions.

30 THE COMMISSIONER: Yes, thank you. Any re-examination Mr Strickland?

MR STRICKLAND: Yes, there is. You said that you had 20 to 25 hours of training with Daniel Paul. Is that correct?---Approximately, yes.

Well do you remember you were asked about that matter in your compulsory examination in March 2012?---I, I do remember, yes.

40 And I'll take you to it if you need me to but you said in that examination you had five or six sessions with him lasting between half an hour and a couple of hours and in total you had - you just did a few hours training. Do you remember that evidence?---I remember getting it, I don't remember exactly what I said but - - -

Okay. Well, I'll take you to it.

THE COMMISSIONER: You'll need a variation though of the suppression order.

MR STRICKLAND: Yes, please.

THE COMMISSIONER: Yes. The - well, what variation do you want, Mr Strickland?

MR STRICKLAND: I just ask that pages 561 to 563, that those pages be lifted. I'll be tendering those three pages.

THE COMMISSIONER: Yes. The suppression order relating - - -

MR STRICKLAND: Just those three pages.

10

THE COMMISSIONER: The suppression order relating to pages 561 to 563 of the transcript of Mr Thompson's compulsory examination of 6 March 2012 is lifted.

**SUPPRESSION ORDER RELATING TO PAGES 561 TO 563 OF
THE TRANSCRIPT OF MR THOMPSON'S COMPULSORY
EXAMINATION OF 6 MARCH 2012 IS LIFTED**

20

MR STRICKLAND: Could the - if I could just take you to 562. You got that? Line 35. Question, "These coaching sessions that Daniel Paul did was - - -?---I apologise, I don't actually have 562 in this document. Odd pages have been given not even pages.

THE COMMISSIONER: I beg your pardon?

MR STRICKLAND: Only odd pages of the document have been copied not even pages.

30

So you were asked this question at 562 line 35, question, "And these coaching sessions that Daniel Paul did, Daniel Paul did was there large amounts of hours involved in these or were they sort of one-off events? No", answer, "No, there would have been around four, five separate events and one might have been 30 minutes. I think the longest we ever spent together would have been two or three hours." Do you recall that?---Yes, I do.

40 And you also said or that of those two or three hours you spent together not all of it was to do with training sessions. Is that correct?---That's correct.

Right. You then were asked over the page at 563 - you then say at line 10, "I would suggest we probably had an invitation to continue it further for one reason or another, probably just because we weren't particularly organised." Do you see that?---Yes.

Was that answer correct?---I believe so, yes.

So is it the case that there was no definite plan to have further sessions that it - you understanding was it was just - you just probably had an invitation?--No, I, I fully intended to take it further.

Why did you say probably in that - in that answer?---I'm not unsure.

10 You were then asked we paid him during the course, during the course of the conversations. Question, "Well I mean you told us that he came for half an hour, he once came for two hours and he came about three times? You said oh, no, it would have been more than that. I think I said five or six times I think it would have been. All right. Five or six times, no longer than an hour at a time. Mmm. Only one or - only two hours, one half an hour, that's about five or six hours work et cetera." See and then if you go to 565 the Commissioner asked at line 12, "You got a few hours out of it?", your answer, "Only - oh, maybe a few more than that. That's what your evidence is? It certainly was only a matter of hours. Are you changing your evidence now? No, sir, absolutely. Would only have been a few hours. It certainly wouldn't have been dozens of them." Do you see that answer?---I do.

20

And was that answer a true, a true answer?---I believe it was as I, I thought at the time, yes.

And what, you've changed your mind have you?---I would be - being honest in saying I can't recall the exact number of hours.

All right. So your - is your answer 20 to 25 hours just a guess?---It is a guess, correct.

30 All right. It may have been - the evidence you gave in March 2012 could equally have been correct. Is that right?---It could have been correct, yes.

And there's no - you don't have any record of the hours you spent?---I do not.

Well I suggest that your evidence about any hours of training with Mr Paul is a fabrication?---No, that is not correct.

40

No, no further questions.

THE COMMISSIONER: Yes. Can Mr Thompson be excused?

MR STRICKLAND: Yes, please.

THE COMMISSIONER: Yes. Mr Thompson, you are discharged from the summons. You may leave the witness box.

THE WITNESS EXCUSED

[10.15am]

MR PATTERSON: May I be excused, Commissioner?

THE COMMISSIONER: Yes, certainly. Ms Lonergan, are you leading the evidence of the next witness?

MS LONERGAN: I beg your pardon?

THE COMMISSIONER: Are you leading the evidence of the next witness?

10 MR LONERGAN: No, Commissioner, Mr Yallouris is next.

THE COMMISSIONER: Oh, Mr Yallouris.

MR STRICKLAND: I call Mr Yallouris.

THE COMMISSIONER: Won't you sit down, please. Are you legally represented, Mr Yallouris?

20 MR YALLOURIS: I'm not, no.

THE COMMISSIONER: No. I need to explain something to you, Mr Yallouris, if you listen carefully please. As a witness appearing before the Commission you are required to answer all relevant questions and produce any document which you are requested to produce and you must do this even though your answer or the production of the document may incriminate you or tend to incriminate you. But if you object to answering any question or producing any document your answer or the document cannot be used against you in any civil or criminal proceedings or in any disciplinary proceedings, even though I don't think you're interested in those. But this protection does not prevent you from being prosecuted for giving false or misleading evidence. Now, the protection that I have described is most conveniently obtained by me making an order on your application for a declaration that all answers which you give and any document which you may produce will be regarded as having been given or produced on objection and if you do this there is no need for you to take objection in respect of each particular answer or document. Do you understand what I have said?

40 MR YALLOURIS: I think so.

THE COMMISSIONER: So if you wish to obtain the protection that I have been talking to you about, that is to say that the evidence you give cannot be used against you in any criminal or civil proceedings, I have to make a declaration to that effect. Do you want me to make such a declaration?

MR YALLOURIS: I do.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Yallouris 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.

10 **PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT
ALL ANSWERS GIVEN BY MR YALLOURIS 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.**

20 THE COMMISSIONER: Now, Mr Yallouris, as I have explained to you, that protects you to the extent that I have described but it does not protect you should you give false evidence. Do you understand that?

MR YALLOURIS: I understand.

30 THE COMMISSIONER: And the seriousness of giving false evidence is underlined by the fact that if you are prosecuted and convicted for giving false evidence at a compulsory examination you render yourself liable to a penalty of imprisonment of up to five years. So it is really important that you tell the truth. You understand that?

MR YALLOURIS: I understand.

THE COMMISSIONER: Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR YALLOURIS: Under oath, please.

40 THE COMMISSIONER: Would you swear Mr Yallouris in, please.

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Sorry, just, just before I ask questions of Mr Yallouris, Commissioner, I seek a - in relation to the vacation of the suppression order you made - - -

10 THE COMMISSIONER: Yes.

MR STRICKLAND: Perhaps I should do it, I think the entire document of the Thompson C transcript was handed out, perhaps, I wonder if the legal practitioners could hand those back, all of them, and then we will, we will provide copies of the relevant pages. What I will do, could I ask could the suppression order be vacated to the extent that it is vacated in respect of pages 562 to 565 inclusive and then I will tender those three pages.

20 THE COMMISSIONER: The previous variation of the suppression order that I've made is vacated and the new order will be that pages to - what pages did you say?

MR STRICKLAND: 562 to 565.

THE COMMISSIONER: - - - 562 to 565, the suppression order is now vacated to the extent that pages 562 to 565 are no longer subject to the suppression order. Copies will be provided to all interested parties of those pages.

30

THE SUPPRESSION ORDER IS NOW VACATED TO THE EXTENT THAT PAGES 562 TO 565 ARE NO LONGER SUBJECT TO THE SUPPRESSION ORDER. COPIES WILL BE PROVIDED TO ALL INTERESTED PARTIES OF THOSE PAGES.

MR STRICKLAND: And could those four pages become Exhibit 136.

40 THE COMMISSIONER: And the four pages, well pages 562 to 565 will be Exhibit 136.

MR STRICKLAND: Thank you.

THE COMMISSIONER: So it's, sorry, it's pages - - -

MR STRICKLAND: 562 - - -

THE COMMISSIONER: - - - 562 to 565 - - -

MR STRICKLAND: That's correct.

THE COMMISSIONER: - - - of Mr Thompson's, of the transcript of Mr Thompson's compulsory examination become Exhibit 136.

**#EXHIBIT 136 - PAGES 562-565 OF MR THOMPSON'S EVIDENCE
GIVEN IN COMPULSORY EXAMINATION**

10

MR STRICKLAND: Thank you. Mr Yallouris, if you can speak up because every word you say is being transcribed. What's your full name?
---Terry Yallouris.

And what's your occupation?---General manager.

And what's the company you now are general manager of?---BGW Technologies.

20

And how long have you been the general manager of that company?---
Approximately two years.

And before that what was your position?---I was a sales – general manager of Pelco Australia.

And when did you begin that position?---2005.

30

And when you worked at Pelco Australia was that a subsidiary of Pelco, an American holding company?---Yes, it was.

And Pelco was one of the leading companies in the world in relation to security, providing security products. Is that correct?---Correct.

It was one of the largest in terms of volume of sales, et cetera?---I think it was the largest.

The largest in the world?---Yep, yep.

40

And what was – can you just describe briefly the relationship between Pelco Australia and the parent company in the United States?---Sorry, I don't quite, what do you, sorry.

I understand. Well, well Pelco Australia distributed the products manufactured in the United States. Is that correct?---Correct. No, sorry, I'll rephrase. Pelco Australia was a, I think I understand your question, Pelco Australia was a, a sales and service support arm of Pelco USA.

Okay. And what role did Pelco Australia play in the global business?---Pre and post sales support.

THE COMMISSIONER: Where did you get your product from?---From the factory, from Pelco.

In America?---In America.

So you didn't manufacture products?---Yes.

10

So you didn't?---Sorry?

In Australia you didn't - - ?---No, no in Australia we did not manufacture anything.

MR STRICKLAND: All right. I just want to ask you some questions about what Pelco Australia did?---Yeah.

It did not manufacture products?---Correct.

20

It did not warehouse products?---No.

Did it make decisions about prices?---Yes and no.

Right. Well was there, was there a list of price in relation to the product? ---Correct, yes. There was a regional price.

THE COMMISSIONER: That came from America?---It came from America.

30

MR STRICKLAND: So that's the no part of your answer. Is that right?--- That's the no part - - -

You said yes and no?---Yes, correct, yes.

And, and the yes part is what?---Is that we had some autonomy in, in - - -

THE COMMISSIONER: Some discretion?---Discretion on pricing.

40

MR STRICKLAND: And can you describe what that discretion was? ---That was based upon it all had to be approved by the US, whatever decision we made. But we had volume based discount structures, we had competitive price discount structures. So we had a little bit of flexibility to, to make recommendations to Pelco USA for variations to the regional price.

Okay. So you could make recommendations to vary the regional price. That recommendation would then have to be approved by Pelco United States?---Correct.

And the volume based discount, that, that is if the volume of products and the total price of product was over a certain amount that you could - in fact could be a basis for a volume based discount. Is that right?---Correct.

And what kind of price or volume was required to generate that discount or to trigger that discount?---It really depended on the product.

10 Okay. Well, so the Endura product?---It could vary from a base price of 20 per cent discount up to 60, 70 per cent discount.

But what volume is required to generate any discount?---That probably wasn't a volume based product, it was more of a competitive - volume based product was our other products like spectras, things like that.

Okay. So C - - -?---CPD

CPD?---Yeah.

20 And how did that, how did that work?---CPD was a process that we had to enable us to be competitive on projects.

Okay. What does CPD stand for?---Competitive Price Discounts.

30 Okay. And can you, can you explain how - what kind of circumstances would exist before you would exercise a discretion to offer a competitive price discount?---We would look at the, I suppose the project, we would look at our competition, we'd, we would also look at the actual project maybe as a reference site, so we - it basically would be if we were competing in a situation how aggressive I suppose we wanted to be.

And what was your - what kind of discounts would be offered in relation to competitive price discounts? What's the range of, what percentage of discounts?---Again it would vary entirely on the product 'cause every product - as a manufacturer we are different - every product had a different margin.

Okay.

40 THE COMMISSIONER: Well what was the maximum discount you could offer overall?---Top of my head I would say - I've seen discounts up in the 60, 70 per cent off.

And those - and in what circumstances are those kind of discounts given? ---Just competitive situations.

But does that - so what profit does, does Pelco make?---A lot. It was a manufacturer so its margins would have been over 100 per cent.

MR STRICKLAND: But there wouldn't be a circumstance where you would offer a competitive price discount if the margin was reduced below a certain level. Would that be correct?---There was a. there was a rule of thumb that the company used to use and that was the maximum discount when they had the, the margin analysis across the whole project would not be below 30 per cent margin.

10 Okay. When you say used to would that exist in 2009?---That's, that's my last recollection of it.

Okay. So in other words the minimum margin that Pelco would need to make would be 50 per cent?---Correct.

Okay. And just to be completely clear the margin is the percentage profit they would get in relation to that particular sale. Is that what you mean by margin?---No. 'Cause the margins were all measure in the factory.

20 Okay. You explain? You've been giving evidence about margins?---Yeah.

Can you explain what that means?---That's basically the difference between the, the cost of the product from the factory and the sell price.

Thank you. Okay. Now Pelco Australia in 2009 had a select number of customers, didn't it?---Correct.

It didn't sell directly to the end user, is that correct?---Correct.

30 It mainly sold to integrators - - -?---Correct.

- - - and distributors?---And distributors, correct.

All right. And what was the reason for that?---Pelco had a very strict policy of not selling direct to end users.

Can you, can you explain why briefly?---That was just something that was implemented from the, from the management and it's always been one of Pelco's strong points that we don't sell direct.

40 THE COMMISSIONER: Why is it a strong point?---I think because mainly - it was a point of - we were a manufacturer and we maintained as a manufacturer. We do not integrate, we do not - - -

You didn't, you didn't want to deal with the retail public?---We didn't want to deal with the retail public plus we felt that you know our product only makes up a portion of the sale and installation often is larger than the, the actual equipment most of the time so it's not our - it wasn't our, it wasn't our forte, we're a manufacturer of CCTV equipment.

MR STRICKLAND: Just on that point, was it your experience that generally speaking that the product would represent approximately 30 per cent of the total product that was being offered to the end user?---Yeah, yeah, yeah, I mean give or take, yes.

10 When you sold products was the sale price in US dollars or Australian dollars?---It was in what we used to call FOB US dollars which basically meant the price, that was basically from our factory we sold in US dollars and then - - -

THE COMMISSIONER: So FOB normally means free on board?---Yeah, in the local, the country of manufacture.

So it really is the price in America plus the transport costs to here?---No, no, free on board basically meant from our factory to the port and the responsibility from the port to its final destination was by the distributor or the integrator.

20 I'm sorry, we might be at cross purposes?---It's free - - -

When you get the product from America how's the, the price is determined by the price put on the product by America in US dollars plus the freight costs to Australia?---No freight costs, our responsibility was - - -

Who pays the freight costs?---The, whoever's purchasing the product, the distributor or the integrator.

30 All right.

MR STRICKLAND: So when you do a quote to the Australian distributor or integrator, is that in Australian dollars?---US dollars.

THE COMMISSIONER: You just, you just quote what the, what America tells you to quote, subject to your discretion?---We quote what the, what the, off a US dollar pricelist in US dollars.

40 MR STRICKLAND: I just want to, just on that point, can the witness be shown Exhibit 1, tab 47. No, I'm sorry, I beg your pardon, that's not the document. Excuse me for one moment. Could the witness please be shown Exhibit 74 please. Sorry if this is an obvious question but you can see, I'll come back to this in a moment, but do you see the price you've quoted in US dollars?---Correct.

So does that mean that the end user will be paying that price plus the cost of freight, is that right?---No.

No?---No. That, that price would - - -

Sorry for not understanding?---Sorry.

I don't understand your evidence, I'm sorry, about the freight issue?---Oh, okay. Well, basically we had a, that price would be the price that the distributor would be paying Pelco USA for the goods.

THE COMMISSIONER: Aren't they paying you?---No.

10 But you're in, are you only acting as an agent?---No, we were, I think it comes from the fact that at the time Pelco was a private company and - - -

Yes, but you're either a, but the Art Gallery, I'm sorry, Q Videos, was Q Videos dealing with Pelco Australia on the basis that Pelco Australia was an agent or was it dealing with Pelco Australia on the basis that Pelco Australia was a principal in the transaction?---The transaction, all purchase orders and all accounts and payments and, were done direct from Q Video to the USA.

20 But that's not what I'm asking?---Can you ask the question again, please?

The disease is catching. I asked you when you did a deal with a person in Australia about selling Pelco products were you simply acting as an agent for America or were you doing the deal in your own right as a principal or do you not know?---I mean I'm not quite sure if I understand what you mean by principal. That's all.

Well you know if you've got a house and you're going to sell a house?
---Correct.

30 You get an estate agent?---Correct.

And the estate agent goes out and sells the house on your behalf. And you get the purchase price or you don't use an agent, you go out and sell the house yourself. Now I'm asking you when Pelco Australia sells is it selling like an estate agent or is it selling like a house owner?---I would say probably an agent.

40 MR STRICKLAND: But you're not sure of that answer are you?---Yeah, I'm not really sure because I'm not, because if you're selling a house and you're employing the agent, the agent doesn't own the house. In our situation the agent, the house owner is Pelco and - - -

THE COMMISSIONER: Pelco which?---Pelco USA. And - - -

You never owned the, that, that – yes I understand that, but all right, look the complexities of the legalities are too much at the moment. But it's clear – my impression is that you have no idea in what capacity you were selling

the goods. Is that right?---Well the capacity was that we wanted to sell the product and support the product.

MR STRICKLAND: Could I ask you this, the – that is when you, when Pelco, I'll just leave Pelco Australia and Pelco US. When Pelco, Pelco sells its product to QVS in this case. Correct?---Correct.

THE COMMISSIONER: No, I think you better talk about Pelco Australia.

10 MR STRICKLAND: Can I just, can you just give me - - -

THE COMMISSIONER: Well I don't know what Pelco means.

MR STRICKLAND: I'm coming directly to it, but I just want to ask this. Now does the contract, the agreement between Pelco and QVS is that, is the agreement between QVS and Pelco United States or Pelco Australia?---Correct, correct.

20 Now that agreement between Pelco US and Q Video is that, is that reduced to writing that agreement?---Correct.

And - - -

THE COMMISSIONER: There's a written agreement between Pelco US and Q Videos?---Correct.

And Pelco US represented by Pelco Australia?---But the agreement was with - - -

30 You say, you nod your head, you mean yes?---Sorry?

By nodding your head are you indicating yes?---That there was an agreement between QVS and Pelco USA.

And was that in writing?---Correct.

And in the written document who represented Pelco US?---Pelco Australia.

All right.

40 MR STRICKLAND: So for the contract in writing between QVS and Pelco US you've got Exhibit 74 with you. Is that correct?---74?

74?---Oh yeah, O.K. Yep.

So was that, was that part of the contract, part of the written agreement?---In what respect?

Well I'll ask you another way. What, what documents – did you ever see the written agreement?---Yeah, the written agreement was an annual agreement and it was based upon an agreed volume for the (not transcribable)

I didn't hear your answer?---The agreement was an annual agreement.

I got that?---And it was based upon an annualised volume expectation of purchases for the year.

10

THE COMMISSIONER: What way was it based on that?---It was just, you know - - -

What do you mean that it had to reach a certain volume?---No, we never had volumes, sorry, we had never had hard targets. We also had an expectation of what we expected from all our customers.

And what happened if you didn't meet the expectation?---We had a variance of plus and minus 20 per cent of the - - -

20

Variance of what?---Of the number that we had put on the agreement.

No, I don't understand that. I really just don't understand that. I don't understand what he means. The variance of what?---Of the value that we put down on that agreement.

The value of what?---A dollar value.

Of what?---Of purchasing of products.

30

But, but if you're only acting as, as an agent - - -?---Correct.

- - - does that - and the volume doesn't meet the expectation - - -?---That it was Pelco's discretion, Pelco's USA discretion to determine whether we continue with that customer or not.

So does, does the contract between Pelco USA and Pelco Australia determine the identity of the customers in respect of whom Pelco Australia can canvass sales?---There was no contract between Pelco Australia and Pelco Australia USA.

40

No, I didn't say - sorry?---There is no contract between Pelco Australia and Pelco USA.

I'm sorry, I'm now completely lost. I thought you said that there was a contract each year between Pelco Australia and Pelco - - -?---No, no. Pelco USA and QVS.

I see. So QVS didn't purchase a volume, that would mean that they might not get the contract for the next year?---Correct.

All right. And did it affect price?---There was a set standard price in there but there was also provision then for volume based pricing and CPD pricing but it was never identified.

All right.

10 MR STRICKLAND: So that annualised contract was - had nothing to do - you had no role to play in drawing up of that annual last contract did you? ---No, it was a standardised contract from Pelco USA.

Now you knew - I'll ask you about the particular contract, particular agreement in relation to the Art Gallery in a moment but you knew Charlie Diekman from Kings, is that correct?---Correct.

You have to speak up, please?---Correct, sorry.

20 And what was the nature of that relationship in 2009?---It was a business relationship.

Did you socialise with him at all?---We did a few times, yes.

And where was that?---We'd been out on his boat a few times, twice I think, conferences.

In Australia?---In Australia and overseas, yeah.

30 Including the ISC conference in Las Vegas?---Correct, correct.

And you also, you also knew Daniel Paul in 2009?---I did.

Were you friends with him?---We were associates, yes.

You've been described as close friends by a witness in this case. Could that - was that - would that be true or incorrect?---We're friends, we are friends.

40 THE COMMISSIONER: Close friends?---We're, we're close friends I suppose, yeah.

MR STRICKLAND: And you had a shared interest in motorbikes, is that right?---We, we did, yes.

You went on motorbike trips together?---We went on one motorbike trip together.

And you socialised with Mr Paul as at back in 2009, is that right?---I would say that we have socialised, yes.

And you attended conferences together with Mr Paul?---I did.

Including the ISC one in Las Vegas?---We, we - as - I did attend the IC West Conference in 2009.

Did you gamble with Mr Paul?---No.

10

Now you knew Mr Paul was a security consultant at the - for the Art Gallery, is that correct?---I did, yes.

And did you deal with - and you had frequent dealings with him after he became the security consultant on the Art Gallery in relation to that project?---Yes.

20

Were there any other projects you were working with - on him at that time and we're talking about end of 2008 early 2009?---We supplied some equipment to, to Westfield's.

And he was the security consultant on that project for Westfield, is that correct?---Yeah, at the time he was, yes. Lend Lease.

Again, was that in February 2009?---I don't know the exact date I'm sorry, I can't remember.

30

But did you have discussions with Mr Paul about selling the Endura product?---I would say yes.

And did you tell him about, did you have discussions with him about the Endura 2 product?---I would say yes.

THE COMMISSIONER: At what stage?

MR STRICKLAND: I'm sorry, thank you.

40

So the contract that the tender for the Art Gallery project was open on 2 or 3 February and the contract was awarded on 7 or 8 March, so before the contract was awarded do you recall having discussions with Mr Paul about the Endura 2 product?---Not, not specifically but we did, you know, we did promote the product in the marketplace to all consultants.

Did you have some, did you have a fair knowledge about the difference between Endura 2 and Endura, the previous version?---I did, yes.

And what, essentially what was the difference?---High definition, high definition recording.

And, and just explain briefly what the significance of high definition recording is?---Significantly it's just better, better quality resolution.

THE COMMISSIONER: On the screen?---So socially from your old analogue television to HD television.

So on the screen?---On the screen, yeah, and the cameras.

10 MR STRICKLAND: So a person, the security personnel at the Art Gallery looking at the screen in the control room can have a greater detail about what they're observing on their CCTV screen, is that correct?---Correct.

THE COMMISSIONER: So you were, just to make sure there's no misunderstanding, you were promoting Pelco Endura 2 before the Art Gallery tender came out, is that what you're saying?---Yeah. We used to get pre, pre release information from the factory and - - -

Yes?--- - - - we used to promote that.

20

Even though it hadn't yet become available?---Correct.

MR STRICKLAND: Now, can you have a look at, have you got Exhibit 74 there please?---Ah hmm.

That's a - - -

THE COMMISSIONER: The email.

30 MR STRICKLAND: An email chain, at the top of the chain it's from Paul Thompson to Tony Theissen on 18 February, 2009. Do you have that document there in front of you?---I do, yeah.

Now, just go please to the, excuse me, to the second page of that and you'll see just at the bottom of that page, it's the bottom of page 5 throughout, there's an email from Paul Thompson to yourself on 16 February, do you see that?---Ah hmm.

40 Subject Art Gallery and Mr Thompson writes to you, "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 see that?---Ah hmm.

Do you know what that refers to?---(No Audible Reply)

Do you know what the options refer to?---(No Audible Reply)

Now, if you need to have reference to the later email beginning on the first page, page 537 by all means do so.

THE COMMISSIONER: There are three options there, you can see that?
---I would say that option 3, option 3 is the higher resolution option.

MR STRICKLAND: Yes?---And I'm not quite sure what he means about
why he's, and 3, what - - -

10 Can I just suggest this, that email shows that you had some discussions or
emails with Mr Thompson before that email because you're, you're talking
about options which indicate there's been some previous discussion about
it?---Oh, there quite possibly had been some discussion about it.

Well, there must have been - - -?---Yeah.

- - - mustn't there when you read that email. I mean, he wouldn't send out
of the blue "Send me the quotes for options 1, 2 and 3 once you have good
news" unless you had some idea what he was talking about?---Correct.

20 So is it the case that you - well, first, if you go to the, the three options
you've set out or that are set out by you on 18 February, are they options,
are they the options that are referred to in that 16 February email?---Yeah, I
can only assume that that's what they are, yeah.

Okay. So just going through those options are each, each of those options
relate to Endura 2, is that correct?---Yes, correct.

Well, I won't ask a leading question. I should say do you know whether
each or any of those options relate to Endura 2?---Option 2 and 3 definitely
and part of, sorry, all three do.

30 All three do?---Yeah.

Okay. And so just to, so I can understand it, you said the basic difference
between Endura 2 and Endura 3 was the high resolution images on Endura 2
- I'm sorry, I withdraw that question, I withdraw the question. The basic
difference between Endura 2 and Endura 1.5 - - -?---Yeah.

- - - which was the earlier version of Endura 2, correct?---Correct.

40 Was the high resolution images on Endura 2?---Yeah, and the, without
getting too technical, the ability to do H.264 recording.

What, what is that?---It's a more efficient way of recording than the, than
the previous version.

Is there any difference in the two versions in relation to the cameras
component of that system?---Megapixel cameras which is a high definition
camera cannot work on 1.5 and below.

So the answer to that question is yes, is that right, that one of the differences between Endura 2 and Endura 1.5 is megapixel cameras?---Correct.

Which didn't accompany the Endura 1.5 product?---Correct.

THE COMMISSIONER: So you'd have to get new hardware for Endura 2? ---Endura 2 was some, some, some new components, not all of it but some new components.

10

MR STRICKLAND: So could I ask you just going back to the 16 February email where Mr Thompson asks you to send him the quotes for options 1 and 2 and then, and 3 once you have good news, what's the good news that he was referring to relating to option 3?---I'm, I'm not sure.

Do you know if that had anything to do with a release date of Endura 2? I don't want you to guess but I'm just asking if you do know?---No, because they're similar components in 2 and, option 2 and 3 so I don't think it may have to do with release dates.

20

When he said the integrators are nagging do you know what that meant? ---Not, not specifically no.

THE COMMISSIONER: Well, who are the integrators?---The integrators would be the people installing this system.

Kings?---And others, whoever was tendering on the, on the Art Gallery project.

30 MR STRICKLAND: Did you know that Kings were particularly persistent in trying to get a quote for the Endura 2 product?---I do believe so, yes.

And how did you know that?---Oh, well, just in conversations, you know, Charlie was, you know, pretty aggressive, he wanted to - I mean all the tenderers were, were approaching us directly at the time.

And so which tenderers - which people approached you in relation to this project?---I can't recall specifically, I don't have that information.

40 You recall Mr Diekman though?---I recall Mr Diekman, I recall - yeah, I can only - I don't want to have a guess, I can only from the transcript sort of - I don't want to guess but obviously Charlie was - his nature was pretty insistent so he was nagging us.

And when you say nagging us he was nagging you in particular?---That is right, yeah. 'Cause we're the manufacturers so - - -

What was he nagging you about precisely?---Well, he, he wanted it, you know he - given the time and that he wanted to put a, you know an Endura price in.

And Endura price for which product?---An Endura price, I'm not sure of the product, it would be Endura 2 I would say.

All right. And - - -

10 THE COMMISSIONER: He wanted to put in a price for Endura 2 in the Art Gallery tender?---I, I'm assuming that, yes.

MR STRICKLAND: And was your - was he nagging you about when Endura 2 would become available?--- I can't recall exactly.

That, that must have been a critical - when this email was written no-one could order an Endura 2 product, could they?---I can't be - I can't answer that 100 per cent so I'm going to say I'm not sure.

20 Okay. Well have a look at exhibit - just have a look at page 538, and the bottom of the page?---Ah hmm.

Now this is now your email, okay. Where you've - where you have provided Mr Thompson with the quote or the three quotes I should say? ---Ah hmm.

And at the bottom of that email you say please note all mega pixel options are based on V2 Endura due in April?---Ah hmm.

30 And so being reminded of that you can with some degree of certainty can't you that no-one could place an order for an Endura 2 product until it was released in April?---Not - no.

No what?---Pelco had the ability to pre-order equipment on prior to release dates.

THE COMMISSIONER: Pelco had the order?---Pelco used to put out into the marketplace pre-release dates, start ordering now and the product is due in first quarter - - -

40

Did they do that - was that done with Endura 2?---It was done on every product to our disgust because most of the time Pelco missed the, the dates.

MR STRICKLAND: So you're saying that orders could be made for products as at the date of this email?---Yes. Quite possibly, yes.

THE COMMISSIONER: Do you know or don't you know?---No, quite possibly.

No, no. That's quite possibly is not knowing, is it?---I, I can say that the way Pelco - - -

Do you have any independent knowledge of the fact that as at 18 February 2009 orders could be place for Endura 2?---I wouldn't have those records (not transcribable)

You don't know?---(No audible reply)

10

MR STRICKLAND: I beg your pardon?---I wouldn't know, I wouldn't know.

So what - you wrote that sentence, is that correct?---Correct.

What did you - what did it mean, you wrote it?---Well if, if I'm thinking of the timing of that we would have been at our sales conference and would have seen the product.

20

THE COMMISSIONER: Sales conference where?---In China. And we would have had then information as to when that product would have been finally released.

But why do you say please note that they're based on V2 Endura due in April, what was the point of saying that? Why were you so alert to the fact that you needed to tell the reader of this document that all mega pixel options are based on V2 Endura due in April?---(No audible reply)

30

What, what, what, what did that indicate to them?---I would assume that it basically meant if they - hope they didn't want it next week 'cause it wasn't going to be available next week.

Well it's your document so why did you put it in for that reason?---Terms and conditions of the - of why we're quoting this, this is the conditions.

So in other words if the V2 Endura came out in May you would have different - you could have different prices?---Could have different prices.

40

MR STRICKLAND: What I want to suggest to you is that in - when you wrote this email on 18 February, Pelco United States permitted Pelco Australia to make quotes on Endura 2 products. Do you agree with that? ---Correct.

And there might be documents relating to the specifications of those products. Do you agree with that?---Yes.

But what was – until the product was officially released at the ISC conference in April 2009 they would not, that is Pelco United States would not accept orders in relation to that product. Do you agree with that or not? ---As to the date at the end of the day they would not release the orders until the product was complete.

THE COMMISSIONER: Sorry, they would not release the orders?---They would not release the product until the order was released, until, I twisted it.

10 Until the order was released?---They would not, you could pre-order the equipment but it would not ship until the product was released.

MR STRICKLAND: That was your understanding?---Yeah.

Are you sure of that or you're not, you're not sure?---Well I can only – we have a product at the moment, we represent Pelco today. And we have a situation where - - -

20 THE COMMISSIONER: But are you talking – you've said I think that the – each product was dealt with separately?---Yes.

So with regard to this particular product Pelco Endura 2 - - -?---Yes.

- - - do you – I thought you said you didn't know whether you could order or not or am I wrong, that is before the release date?---If you – I cannot guarantee you that they – you could order it or not.

30 Because you don't know?---Because I don't have the information in front of me, no, I wouldn't know.

MR STRICKLAND: Do you remember when Endura 2 actually became physically available in relation to this project?---No.

I want to suggest to you that it became actually physically available from 24 June, 2009. Does that sound right to you?---It could possibly, yes.

40 Now going back to this sentence, “note all megapixel options are based on version 2 Endura due in April”, it was important wasn't it for you to convey to the distributor QVS that if they went with the Endura 2 option when that product was going to become available. Is that right?---Correct.

And did you ever advise QVS that after 18 February, 2009 that Endura 2 would be version 2, would be available at any earlier date?---I can't recall.

Did you ever advise any of the integrators that it would become available at any earlier date than April 2009?---I really can't recall that.

THE COMMISSIONER: It seems very unlikely that you would have?---
Yeah, I don't have the information sir I can't, I can't recall. And the
chances are that we would have notified them of delays or changes in the
schedule.

But were there delays?---I'm not sure. Generally speaking there was always
delays, but on this particular product I can't say. I do believe there was one
component that was delayed.

10 MR STRICKLAND: When you mean delayed, you're talking after the
contract had been entered into. Is that right?---No. I do recall that it was
technical delays on one component of the product.

THE COMMISSIONER: What technical delays?---It was released and then
it was pulled back and it created a bit of grief for us.

MR STRICKLAND: Are you talking about version 2?---Version 2, yeah.
It was delayed quite, quite - - -

20 I don't, I'm sorry I just - - -?---There was one component of version 2 that
was delayed that created some problems for us.

Okay. I'll come, I just want to try and understand the chronology. First,
you've written this statement in your quote. Correct?---Yes.

Because it's vital information for the distributor to know?---Yes.

That information about when it's due comes from the United States parent
company because it actually holds the product. Correct?---Correct.

30 If there was any change in the release date that would have had to have been
advised by Pelco US to you?---I'd assume so.

It's more than an assumption, sir, you couldn't possibly - what other way
could you have known if there was an earlier release date other than from
the parent company?---There was no way.

So the information about whether there was any other date must come from
the parent?---Must come from the parent.

40 THE COMMISSIONER: And come in writing?---It usually came in, in
writing, yeah.

Email?---Technical bulletins or - - -

Or emails?---Or conversations with product managers.

MR STRICKLAND: So did you receive any communication in writing from the parent company about any change in the release date of Endura 2 after you wrote this email?---I can't, I don't remember.

We have, the Commission has sought documents in relation to this matter from Pelco and Q Video and there is no other information that's been produced to the Commission containing any, anything about another release date. Does that come as a surprise to you?---No.

10 Do you know of any other information from the parent company about a release, about another release date?---Not, not off the top of my head, no, I did find some information about the actual release date which was April, 2009, that was only just from asking some people at Pelco if they had any, if they could recall anything but after that I can't sort of - - -

THE COMMISSIONER: You mean that was the - - -?---That was the - - -

That was the forecast release date?---The forecast release date.

20 MR STRICKLAND: Now, did you ever provide any other written quote apart from, apart from this email on 18 February to either Q Video Systems or to any integrator?---I can't recall.

THE COMMISSIONER: Oh, really, Mr Yallouris, your memory can't be so bad?---I haven't, I haven't worked for Pelco for two and a half years.

But you must remember whether you gave them one quote or more than one quote?---I can't recall that, I don't have access to that information, how can I - - -

30 You never gave them, did you give them a quote reducing the price?---I quite possibly could have, yes.

In writing I take it?---We would have had to have put in a final price, yes.

Had you ever seen a document which contains a reduced price quote?---I think in a previous, no, I haven't, no, no.

40 Any, in relation to products of this value quotes must be provided in writing mustn't they?---Correct.

You're a bit soft?---Correct.

The Commission has sought by compulsory process, that is we have required, the Commission has required Pelco and Q Video to produce any quotes or invoices in relation to the Art Gallery project and the only one that's been produced is your, this email which contains your quote of

18 February, that is there is no other written quote that's been produced to the Commission, do you understand that?---Ah hmm.

Is that a yes?---I'm not - - -

When you say "ah hmm" that's not recorded on the transcript?---Yeah, right so - - -

10 So is that a yes to that question?---I'm not aware of any other - - -

No, I'll ask the question again?---Yes.

All I'm asking you is don't, answer with a word rather than a sound if that's okay. Do you understand that the Commission has no other quotations in relation to the Endura 2 product apart from the 18 February email, your 18 February email, do you understand that point?---Yes.

20 And so doesn't, what I'm now going to ask you, doesn't that suggest that there was no other written quote in relation to Endura 2 provided by yourself?---Yes.

The prices, if you go, the prices you offered in relation to options 1, 2 and 3, you offered the most competitive prices you could provide at the item, is that correct?---Correct.

MR STRICKLAND: Because it was a prestige project that Pelco wanted to win?---Yes.

30 In that email of 18 February you say to Thomo, Paul Thompson that you were going to talk to him in the morning. Do you see that?---(No audible reply)

"Any way talk to you in the morning"?---Yes.

Do you recall having any discussion with Mr Thompson about, about that matter, about this quote?---I'm pretty sure I would have followed it up, yes.

40 But you don't recall any specifics of the conversation?---I remember I was overseas and I was going to call him in the morning about it.

Okay. So after you submitted this quote do you recall having any conversation with Mr Diekman about the Endura 2 product?---Yes.

And, and when was that?---I don't recall.

What, what was said in that conversation?---Sorry, I don't recall that.

You have no recollection whatsoever?---Maybe it was to do with release dates. Again I'm only just assuming but it was the release dates configuration.

So do you have an actual recollection - - -?---No.

- - - of what was discussed in that conversation?---Not exactly, no.

10 Well I'm not asking you exactly. Do you have - can, can you more or less recall what was said in that conversation?---I think obviously the critical thing was the release dates of this product.

Yeah. And what did you say about that?---Based upon the information that I would have got from the factory that we're still good for April.

Do you recall having any discussion with Mr Daniel Paul about the Endura product after you wrote this email and before the contract was actually awarded?---I can't remember specifically.

20 You don't recall?---Don't recall.

Did - when, when you said - I withdraw that. Did you - do you recall ever in the conversation you had with Mr Diekman do you recall ever offering to reduce the prices or any price contained in this 18 February email?---I think we were - I think if I recall at the time that we were getting pressed to be more competitive and - - -

THE COMMISSIONER: You think. Are you - - -?---Well it was - - -

30 Are you sure that this happened or are you reconstructing this? Do you know what I mean by reconstructing, I mean trying to work out what must have happened?---This is a very competitive project this one and there was a lot of people chasing it and I am pretty sure that we went very hard for this project.

MR STRICKLAND: My question is in the conversation you had with Mr Diekman and you say you couldn't recall having a conversation after this email and before he was awarded the contact. That's correct isn't it?

---Correct.

40

And you said your recollection of the gist of it there was a conversation about release date and you've given evidence about that. My question is at that conversation or any other conversation before Kings was awarded the contract did you have a discussion about, about reducing the price contained or prices contained in this 18 February email?---I can't recall.

This would be true wouldn't it but if you had had any discussion with any integrator or distributor about a reduction in price you would need to have

obtained authority from Pelco USA before you could have made a firm offer about reducing the price. Correct?---Correct.

And did you ever communicate with Pelco US about reducing the price or prices contained in this 18 February email? I beg your pardon - - ?---Sorry, what was the last part of the question?

10 Did you have any communication with Pelco US after this 18 February email about reducing the prices that are contained in this email?---I'm not, I'm not sure but I would say yes.

Well, there is no record whatsoever in any of the documents that have been produced to this Commission of any such communication to the United States. Can you explain that?---Because the communication for price reduction was done on an extranet.

THE COMMISSIONER: What was? I beg your pardon?---An extranet.

20 Sorry?---It was not done by email, it was done on the extranet.

What's that?---It's a programme that Pelco had where you logged on and registered the projects and in there you put down the equipment list, the margins, not the margins, the discounts and everything and then it was submitted electronically, it was not - - -

Yeah, but you can, is an electronic record kept of what passes between you and, and Pelco USA?---It's kept on the, on their system.

30 Well, that hasn't been produced. So there's nothing produced in that that bears on this contract. What does that suggest to you?---I'm not sure.

Well, doesn't it suggest that there was no such request for a reduction in the price?---It, it must have been submitted because there was, there was no way in the system to allow you to submit the price unless it was approved by the US.

I'm talking about a reduction in the price?---Any price.

40 Yes, but wasn't there a review, we're trying to find out if there was a reduction in the price and one way of finding out whether there was a reduction in the price is to find out if there was any record of it?---Right.

And when the Commission has asked Pelco for any record relating to these issues we have not been any record?---Right.

Now, I infer from that there are either one or two reasons, one or two possibilities here, one is that there is a record but Pelco's not giving it to us or there is no record?---There, there must be a record because there's no

way that I could possibly get a price from Pelco USA without it being (not transcribable)

Sorry, I don't - but why do you say there must have been, there only must be a record if there was a reduction. You, are you saying there was a reduction?---I'm saying that there quite possibly could have been a reduction - - -

10 Oh, well - - -?--- - - - based upon a lot of things but one thing could have been - - -

But you don't know whether there was a reduction or not?---No, I don't know.

So you don't know if there, if there was no reduction there would be no record?---There would be a record based upon the fact that the, the system could have changed ultimate configuration.

20 If there was no reduction there could be no record of a reduction, I mean I - - -?---But the system may have changed.

MR STRICKLAND: Can I ask you this, Mr Yallouris, what you have said previously is that the agreement in relation to the Endura 2 product was between Pelco US and Q Video Systems, correct?---Correct.

There was no agreement between Pelco US and Kings was there, in relation to the supply of Endura 2?---I can't recall at the time if Kings were a direct customer of Pelco's.

30 Well, you've given the quote, you'll see - open Exhibit 74 again?---Yeah.

You've given the quote to Mr Thompson haven't you?---Ah hmm.

You can't, is that a yes?---Yes.

And that, and you knew that he was the, he was a QVS employee?---Yes.

You didn't give the quote to Mr Diekman of Kings did you?---No.

40 You didn't give any quote, you didn't give any email or quote to Mr Diekman of Kings did you?---Sorry, I would like to rephrase that, I don't recall if I did, sorry.

There's no emails or documents at all been provided to this Commission of any document in relation to a quote for any price for Endura 2 being sent by Pelco US or Pelco Australia to Kings?---Okay.

But are you saying that you may have provided a quote to Kings?---No, I said I don't recall if I did.

If you had done so you certainly would have remembered, wouldn't you?
---Two and a half years ago, I don't - - -

THE COMMISSIONER: But you could have given a quote to Q Videos and at the same time given a quote to Kings?---And to Pacific Communications and to all the people who asked for a quote.

10

And there would be a documentary record of all of that?---There should be documentary evidence.

MR STRICKLAND: But you're saying you could have, what I'm asking is whether you did?---I'm not sure.

Well, if you had reduced the prices contained in the 18 February email you most certainly would have written to Q Video Systems indicating in writing that reduction, wouldn't you?---Yes.

20

Now there is no record from Q Video Systems of any such reduction in those prices. Do you understand that?---I understand.

And you can't say whether you did in fact give any written reduction of these prices to Q Video can you?---The only thing I can say is they would have had to have something in writing or some sort of correspondence from Pelco because – to order the equipment and the dollar value of that.

30

What I'm talking about is any reduction in the prices as contained in this 18 February email.

THE COMMISSIONER: The answer applies in the say way does it?---It applies the same way, yeah.

It applies in the same way to a reduction as to an original quote?---So the final materials would have had to have a quotation with the individual part numbers and their individual prices.

40

MR STRICKLAND: Do you know if Pelco ever, that is Pelco US or Pelco Australia ever offered any rebates to anyone in relation to the Endura 2 product for the Art Gallery?---No.

You do not know?---Pelco did not pay rebates.

Did they offer any rebates?---No.

Did you have any discussion with Mr Thompson from QVS that you – indicating that you would be offering rebates in relation to the Endura 2 for

the Art Gallery?---Can you please, can you just – what do you mean by rebate, sorry?

Well - - -?---A discount?

THE COMMISSIONER: No. A payment at the end of the - - -?---No. No.

MR STRICKLAND: Okay. I want to show you - - -

10 THE COMMISSIONER: That is a payment back by Pelco?---A payment back by Pelco, no.

Mr Strickland, we'll adjourn for 10 minutes.

MR STRICKLAND: Certainly.

SHORT ADJOURNMENT

[11.22am]

20

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Thank you. Just look at Exhibit 74 again. Just go to page 539 and Mr Thompson has ended up saying, "Have fun, call me, don't eat any dog." Do you see that?---Yes.

That's because you were in - it's a joke because you were in Hong Kong, is that right?---No, I was in China.

30 In China?---In Shanghai.

Shanghai. When you wrote the email on 18 February were you also in Shanghai? I just note the time at 3.18am?---Yeah. I just saw that 3.18, yes.

All right. So you were in Shanghai at that time?---Yes.

But you could operate your - the email is T Yallouris at Pelco.com and I take it that's the email you use whether you're in Australia or China?
---Correct.

40

So these quotes you provided for the three options you had authority from the Pelco US to offer those three quotes, is that right?---Correct.

And was that authority from Pelco US communicated to you in writing?---I can't, I, I can't recall.

THE COMMISSIONER: But you said that you - it would have to be?
---Well the question - - -

That's your earlier evidence before lunch, before tea, the tea adjournment, was that you, you said that you, you, you wouldn't offer the quotes unless you had authority from the United States?---I'm not sure if these prices are straight prices or they're already discounted prices.

I see. So if they were straight prices you didn't need authority?---That's right.

10 If they were discounted prices - - -?---That's - - -

- - - you would need authority?---You need to get pre-approval and then approval.

MR STRICKLAND: When you say straight prices is (not transcribable) this price?---Yeah, each distributor had a, a percentage off list price for all products.

20 THE COMMISSIONER: But you, you had a, you had a - there was a list price and you had a standard discretion as to a discount you could get give on that, is that right?---No, no. There was a - as part of the agreement, the annualised agreement in there was a fixed discount off list price.

So you'd have - - -?---So they didn't need any approval for that?---You don't.

So are you saying you don't know whether these prices are list price less the fixed discount or whether they contain a great discount than that?---Correct.

30 MR STRICKLAND: Now this - and you're saying this annualised agreement - I withdraw that question. If you wanted to find what the list price was for the products you offered in this email where do you find it, where did you find it, what document did you look at to find it?---There's a published list price.

Right. For these products, there was - - -?---For these products, yes.

And, and where do you find the published list price?---It's - you register and Pelco sends it to you.

40

I see. And do you know what the - so, when is a list price - the annualised agreement you've referred to before contains a fixed discount, is that correct?---Correct.

And what was, what was that described of in, in percentage terms?---It varied from 20 per cent off dealer price up to 40 per cent. Depending - in different categories, it had different discounts. It's product category.

So what, what product category was Endura 2?---Digital.

Excuse me.---It would have been 26 per cent off.

Okay. So in other words, I'm just trying to work out how you, how you may have derived these figures. So you - when you were in Shanghai you would have had access through your email system to the list price, correct?
---Correct.

10 And then you would, you would have applied the 26 per cent discount of the list price, assuming that there wasn't any further reduction. Is that right?
---Correct.

And that's how you would have come up with the figures?---Correct.

Okay. Can I just ask about this annualised agreement?---Sure.

I'm sorry if I'm repeating myself, but this is an annualised, this is a - is it a
20 annual agreement between Pelco US and Q Video Systems. Is that right?
---Correct.

THE COMMISSIONER: It's entered into every year for a year?---For a year and then, yeah, it rolls over and a new agreement is signed every, every year.

MR STRICKLAND: Okay. And is there a hard copy of that agreement that you referred to?---There would be, yes.

30 And there'd also be an electronic copy?---Would have been a scanned copy and sent to, to back to Pelco.

Thank you. Excuse me. I'm sorry, Commissioner.

So the only thing you don't know at this point is whether those prices contained in this 18 February email, they could, they could be either (A) the list price of the items, the 26 per cent discount, correct?---Correct.

40 Or (B) the list price with a 26 per cent discount plus a further discount, correct?---Correct.

And if it were (B) that is something you must have obtained written approval from Pelco US, is that right?---It could have been a verbal approval.

It could have been?---Yes.

Well, I see.

THE COMMISSIONER: Would you not made a record of that?---No. Because at the end of it we still had to - we still had to submit the official one to get the final sign off on the extra - - -

Did you obtain a written - a - did you ask for a further discount? I gather from your evidence that you just can't remember what you did?---No.

MR STRICKLAND: But I'm sorry, Mr Griffin, I'm sorry. Because what, what - the further discount I was asking about was after this email. These
10 questions relate to the prices in this email.

THE COMMISSIONER: Correct.

MR STRICKLAND: There's two different - distinction.

THE COMMISSIONER: That is so.

MR STRICKLAND: Well, perhaps I'll, I'll put it - the - - -

20 THE COMMISSIONER: Perhaps just clarify (not transcribable)

MR STRICKLAND: I'll just clarify that. What I wanted to - so we're now - I'm now talking about - I'm looking at these prices on this email the 18 February email and I understand option A and we're now just looking at option B which is that these prices may involve a list price plus a 26 per cent plus the further discount - - -?---Could - - -

- - - which had to authorised from Pelco US?---Yes, correct.

30 Now you say that, that that further discount may have been verbally communicated to you. Correct?---Correct.

But at some point in time they would have to have then communicated in writing wouldn't they?---Correct.

At what point in time?---Probably prior to, prior to - - -

Making the offer?--- - - - the final bill of material.

40 I beg your pardon?---Prior to the order, prior to finally giving an order.

THE COMMISSIONER: Sorry, finally agreeing - - -?---Finally agreeing to - - -

- - - to supply?--- - - - to supply, yes.

MR STRICKLAND: I see.

THE COMMISSIONER: So, so when you, when do you send your invoice, at the same time as you supply? The invoice to the purchaser?---Invoice to the purchaser no, yes, at the same time as supply.

And to send the invoice to the purchaser you would have to have a written, you'd have to have a written approval from - - -?---It'd have to be in the system approved.

Approved by the USA?---By the USA, yes.

10

MR STRICKLAND: Now I want to show you – I'm sorry, another matter. There were a number of – you own the – Pelco Australia would only permit a certain number of integrators to deal directly with Pelco. Is that correct? ---Correct.

One of those integrators was Kings Security?---Correct.

And was another ACG?---Yes.

20 As at 2009?---I can't be, I can't be exact, yeah.

Do you recall having any communication with Mr Grubisic about the supply of any Pelco products in relation to this Art Gallery contract?---Not specifically, but, the Art Gallery, no, not specifically.

You know Mr Grubisic was the principal of ACG?---I do, yes.

I tender an email from, an email chain from Daniel Paul to Peter Roche and Mr Yallouris and others on 19 June, 2009. If I can just take you to the - - -

30

THE COMMISSIONER: Sorry, just a moment.

MR STRICKLAND: I'm sorry.

THE COMMISSIONER: Exhibit 137 is an email chain, the last email is from Mr Paul to Mr Roche, Mr Yallouris and others dated 19 June, 2009.

40 **#EXHIBIT 137 - EMAIL CHAIN, THE LAST OF WHICH IS AN EMAIL FROM MR PAUL OTHERS DATED JUNE 2009**

MR STRICKLAND: If I can just take you to your, I'll just take you to your email on page 214. Excuse me, just one moment, please. Your email to Mr Diekman on 19 June, 2009 where you say you've been advised that you may be housing, you may be a competitors housing, please be advised if this is the case then we will be revising the project and pricing too, I think that should be double "o". Correct?---(No Audible Reply)

As this will not be a complete Pelco solution and is not keeping with spirit of agreement. Do you see that?---(No Audible Reply)

That was a serious email wasn't it? It wasn't a joke?---Yes.

THE COMMISSIONER: Sorry, you agree it was a serious email?---Yes, otherwise I wouldn't have written it.

10 MR STRICKLAND: And what you were referring to was you were aware that the housing for cameras had been supplied by an entity other than Pelco, correct?---Correct.

And you were annoyed at that?---I was, I was, yeah, I was annoyed, yes.

Yeah. And you were annoyed because you believed that that was not in keeping with the spirit of the agreement as you've written?---Correct.

20 And the agreement was between whom?---The agreement was in its context that we would put as much Pelco equipment as we could, obviously make it a Pelco showcase.

But who was the agreement between, obviously Pelco?---Pelco, QVS and, and Kings.

Okay. And that agreement was, was it an agreement in writing or was it just a verbal agreement?---Just a verbal agreement.

30 And, and so a verbal agreement was you saying something to Kings, is that right, and to someone from QVS?---Correct.

And was the person at QVS Mr Thompson?---I think at the time it was Tony and Paul involved in the, Tony Theissen and Paul Thompson.

40 And what, what was said as part of that agreement?---Basically that if Pelco was going to go, was going to try and make this, if we went hard on the project, to win the project that, you'd know, we'd try and put as much Pelco equipment as possible and then I visited the Art Gallery and saw other housings up there and I was a little bit annoyed.

So when, when was this agreement - - ?---It was not an agreement, it was a, it was - - -

THE COMMISSIONER: An understanding?---It was an understanding.

When was it arrived at?---I would say it would have been after, you know, we secured the order.

MR STRICKLAND: Do you if Mr Daniel Paul was part of that agreement?

THE COMMISSIONER: That understanding.

MR STRICKLAND: I'm sorry, I beg your pardon, was part of that understanding, because you've copied him in?---I, I copied him in because he was the consultant.

10 THE COMMISSIONER: But was he part of the understanding?---I wouldn't think so, no.

I beg your pardon?---I don't think so.

MR STRICKLAND: Because if you look at the chain of emails, including the last one from Daniel Paul, he, he appears to have been copied in to all the emails relating to that matter and indeed, he is, he wrote an email to Mr Roche and you on 19 June at 5.37 where he talks about the true spirit I assume of the agreement?---Ah hmm.

20 Are you sure you had you discussions with him after the, Mr Paul after the contract was entered into about the fact that all the products should be Pelco?---I am sure I spoke to Daniel after the contract but not specifically about any understandings in relation to these housings.

Could the witness please be given Exhibit 2, tab 28. Please excuse me just while I (not transcribable).

THE COMMISSIONER: Did you say, what number?

30 MR STRICKLAND: Exhibit 2, tab 28. At the same time could the witness also be shown Exhibit 1 - - -

THE COMMISSIONER: Exhibit 1?

MR STRICKLAND: - - - tab, tab 47. In Exhibit 1, tab 47 at page 556 there's a quote from Q Video Systems to Mr Diekman in relation to the Pelco Endura version 2 product. Do you see that?

40 THE COMMISSIONER: From Pelco?

MR STRICKLAND: Did I say Pelco?

THE COMMISSIONER: Mmm.

MR STRICKLAND: I'm sorry, I'll withdraw that. There was a quote from Q Video Systems to Kings about the Endura 2 product. Do you see that? ---Ah hmm. Yes.

And you'll see the supplier price at the bottom of 556 is 585,000 or thereabouts plus GST. Do you see that?

THE COMMISSIONER: 785.

MR STRICKLAND: Sorry, what, what did I say? 785,000 plus GST. Do you see that?---Yes.

10 Now if you go to page, if you go to Exhibit 2, tab 28, there's an email from Mr Theissen to Mr Roche referring to an agreed supplier price of 725, 000.

THE COMMISSIONER: It's on page 216.

MR STRICKLAND: Page 216.

THE COMMISSIONER: Do you see that?

MR STRICKLAND: On the other - - -?---Oh, okay.

20 On Exhibit 2, tab 28. Do you see that?---I do, yes.

Now I'm not suggesting you were a party to those documents but are you able to assist the Commission as to any reduction in the – to your knowledge was there any reduction in the price of the supply of the Endura 2 component from 785 to 725,000? Do you know anything about that?
---No.

Okay.

30 THE COMMISSIONER: I beg your pardon?---No, I don't, sorry.

The next thing I wanted to ask you about was have you had a chance to – can I just ask you to read the email that is addressed to you at the top of page 215?---Ah hmm. Yes.

And this was an email that follows on from the email I just showed you and then the email from Mr Roche to Mr Thompson about the, the fact that there's a \$20,000 problem in relation to these housing of cameras. Do you see that?---I do.

40

What I wanted to ask you, did you – did Pelco actually supply any of the housings?---I don't think – no.

So do you know why – when you, when you received this email from Mr Paul on 23 June, did you understand what it meant? It looks to me like the 20K problem could be increased to 50K. Spread around the problem and it'll vanish in an instant?---No, I don't - - -

To your knowledge did the housings have anything to do with Pelco?---I wrote the original email.

I beg your pardon?---I wrote the original email and then I was just – it looks like it just perpetuated from there and it just kept getting copied in on it, but we did not supply any, I don't believe we supplied any of the housings.

10 MR STRICKLAND: Oh, I see, you mean the original email that I, the one that I showed you before?---Yeah, and then, then I was just copied into it so everyone just obviously replied all and kept going.

I understand, thank you.

Commissioner, did this email, the 19 June one, did that have a, an exhibit number? 137 I think?

THE COMMISSIONER: 137.

20 MR STRICKLAND: Thank you, I see.

So you didn't understand what, what he meant by the 20K problem could be, could be increased to a 50K problem?---That's correct, yes.

Did you ever write to him or speak to him and ask what he meant by that? ---No, not that I can recall.

Did, did you receive any gifts from Mr Paul at any stage, that is Daniel Paul?---No.

30 I beg your pardon?---No.

Thank you. Did you go to any concerts with him?---We did.

Did you pay for that or did he pay for that?---Oh, Daniel Paul for it and we paid, I paid him back.

Did you pay back the full price of the ticket?---I would say yes.

40 This is the concert to AC/DC, is that right?---AC/DC, yes.

And you paid back \$100?---It was \$100-odd, I can't remember, it was something.

But you don't know if that represented a full payment is that right?---No, no.

Would you excuse me for one moment, Commissioner. They're the questions I have, Commissioner. I would ask that this witness not be released on the summons.

THE COMMISSIONER: Yes. Mr Lloyd, do you want to lead the charge?

MR LLOYD: Yes, Commissioner.

10 Mr Yallouris, I appear for Daniel Paul and I'll be asking you questions on his behalf. You have been shown at some length this morning the email which comprises Exhibit 74 and I would just ask that you are given that back again. I'm just taking you to the last page of that, numbered at the top right-hand corner 539 and Paul Thompson's last remark to you, "Have fun, call me, don't eat any dog," we've clarified you were in Shanghai and I take it you were in Shanghai with members also of Pelco US?---Yes.

And I gather you were away for some weeks?---I think it was approximately a week.

20 Now, here just above that he's still hoping, you'd assume he's referring to Dan Paul, he's still hoping that Kings or Tony get it but seemed to be leaning towards Kings and we're talking about the Art Gallery contract. You know Tony Grubisic from ACG?---I do, yes.

And you knew that he was also, apart from Kings, a tenderer for the Art Gallery project?---Yes.

30 And as I understand this document, and now I'll take you to the first page, your email about halfway down of 18 February - - -

THE COMMISSIONER: Halfway down?

MR LLOYD: Halfway down the first page, you say, "Hi, Tommo, please see the breakup below, sorry about the nature of the quote." So this is a quotation - - -?---Yes.

- - - for your products to Q Video?---Yes.

40 And to my understanding and correct me if I'm wrong that to your knowledge both - certainly Kings was seeking a quotation off Q Video for the Pelco product?---Yes.

THE COMMISSIONER: At this time?---At this time.

MR LLOYD: At this time. Because Q Video was a supplier and would be supplying to potential integrators?---Sorry, can you repeat your question again?

Q Video was the supplier of many products including Pelco, Verint, other products?---That's correct.

Is that fair?---Yes, yes.

And as I understand it Paul Thompson would have been seeking a quotation off you, that is Pelco so that he could give quotations to integrators interested in bidding for the Art Gallery job?---I assume so, yes.

10 And it would seem at least from this email that potential integrators included Kings and Tony Grubisic. Fair?---(No audible reply)

I'm just taking that from the last page where there's reference to Kings - - - ?---I can't, I can't, I can't answer on the specifics but he says there are other integrators so I assume he's talking about multiple.

And was it your understanding that Q Video would be giving quotations if requested to the integrators that were interested in bidding for the, the job? ---Yes.

20

Now whoever won the bid and we know Kings did and we know that the Pelco product was installed. One thing I haven't seen in this case and it hasn't be shown to you is the actual invoice that was raised for the integrator who got the job, that is Kings to pay for the Pelco product that was installed. Now in that regard I want to ask you about Pelco's business practices. We know Pelco supplied cameras and software, the Endura 2, don't we?---Yes.

We know they must have been paid for?---Correct.

30

You weren't supplying them for free were you?---No.

So to know the price that was ultimately paid what documentation would there be and where would it be?---Pelco would have invoiced QVS.

And would that be Pelco US or Pelco Australia?---Pelco US.

And that invoice would be on Pelco's database in the US?---Correct.

40 And one would assume the invoice would be within Kings records as well since they were paying for it?---No, because the invoice to Kings would have been from QVS.

Okay. So it would be QVS buying the product from Pelco US?---Correct.

So we'd accept to see the invoice in Q Video's records?---Correct.

Because there must have been an invoice?---Absolutely.

So to ascertain if there was any reduction in price from this quotation all we'd need to do is see the final invoice of the monies paid for the product?
---Correct.

And do a straight comparison. There could be no mystery or speculation about any reduction or its percentage, correct?---Correct.

Have you ever been shown an invoice?---The invoices - I haven't seen any invoices, no.

10

THE COMMISSIONER: When, when Pelco US sends an invoice to a customer does it send a copy to Pelco - - -?---It, it used to send - - -

- - - Australia?---They used to sent a pro forma invoice, a copy of the pro forma invoice to us with the delivery details.

So when Pelco sends an invoice - so in this case you would expect Pelco sent an invoice to Q Video, it would also send an invoice to Pelco Australia?---As a pro forma invoice for reference, yeah.

20

Pro forma but a copy of the invoice that a duplicate of the invoice it sent to - - -?---To the customer.

- - - Q Video?---That's correct.

MR LLOYD: And I'm not being critical of you because you haven't worked at Pelco for several years have you?---That's correct.

Likewise you were taken to Exhibit, tab 47 of Exhibit 1.

30

THE COMMISSIONER: Sorry, do you mind repeating that please Mr Lloyd?

MR LLOYD: It's tab 47 of Exhibit 1.

THE COMMISSIONER: Yes, thank you.

MR LLOYD: And did you look through those documents a few minutes ago when it was shown to you?---I had a quick look, yes.

40

And is it fair to say that that document at the top of page 556 headed Q Video dealing with the Pelco Endura product, that in effect appears to be a quotation to the integrator, on this occasion Kings?---Correct.

Again, the quotation in order to work out a discount must be compared and contrasted with the ultimate invoice for the price paid?---Correct.

I just want to ask you a few questions about communications. As I understand it you were in constant communication with the US head office of Pelco?---Correct.

Because in a nutshell you were a sales and service office in Australia for Pelco US?---Correct.

And as I understand it there would have been various methods of communication with your US head office. Yes?---Yes.

10

Email. Correct?---Correct.

Pick up the telephone. Correct?---Yes.

Skype?---Not from me, no.

Okay, not from you, nor for me either. The extranet as you've commented?---Yes.

20

And I want to suggest to you that the extranet records are kept in the computer hub of the US head office?---I wouldn't know.

Okay. And those – you may have had approval and written approval for any price reduction over the extranet.

MR STRICKLAND: Can I just – I don't object obviously to the line of questions, but does that – does the question relate to the 18 February email or to something else? I think it needs to be clarified.

30

MR LLOYD: But we've got the 18 February email where you, where you quote a price. Okay?---Yes.

Are you with me?---Yep.

You said in your evidence that you were going hard to be the supplier of the product?---Yes.

Okay. In your evidence as I understood it globally you're saying there could have been approval for a reduction in price after that. Correct?

40

---Quite possibly, yes.

And I'm just exploring with you the possibilities of how that approval could have been obtained. Is the extranet a possibility?

THE COMMISSIONER: Are you talking about the subsequent approval?

MR LLOYD: Subsequent to that 18 February?---The extranet would have been the final approval.

Sure. And the record would be on the extranet - - -?---Of that, of this project.

And that may be in the US?---Yes.

So in fairness to Pelco it wouldn't be picked up by a subpoena to Pelco Australia would it?

10 MR STRICKLAND: I object. I just - - -

MR LLOYD: I'll withdraw that. But forget the mystery, if there was a reduction in price it would be reflected in the final invoice?---Absolutely.

THE COMMISSIONER: It would be reflected in the final payment too wouldn't it?---Final payment obviously.

MR LLOYD: Just turning to the Endura products, as I understand it Endura 1.5 could not run megapixel cameras?---That's correct.

20

Endura 2 could run megapixel cameras?---Correct.

And to your knowledge the Art Gallery was after and specified in the specs for the tender there had to be megapixel cameras?---I don't recall that.

You don't?---I don't recall that, sorry.

Endura 2 was made up as I understand it of various components?---Yes.

30 One of those being the video console display?---(No Audible Reply)

And I want to - - -

THE COMMISSIONER: Just say yes, please, Mr Yallouris?---Yes, sorry.

MR LLOYD: And I want to suggest to you that the delay in the installation was brought about by a technical hitch for want of a better description in the software for the video console displays?---Correct.

40 The other components were fine?---Yes.

It was a glitch in that that caused the delay.

THE COMMISSIONER: The delay from where to where? What delay?

MR LLOYD: Well, it was suggested to him as I understand it by Counsel Assisting that there was a delay in the installation.

THE COMMISSIONER: Well, is that the delay from April onwards or is it the delay - - -?---Delay from the, after the installation was commenced.

So the installation commenced and then there was a delay before the installation was completed?---Correct, yes.

And that it was caused by this glitch that - - -?---Of one component.

Of one component which is, to which you've been referred?---Yes.

10

And likewise there was going to be lag time between the time of the initial order of the Endura system to the date of delivery. I mean, the product had to come from America, didn't it?---Correct.

And it was going to be as I understand it, shipped?---Well, that, that responsibility was entirely up to the distributor, how they, how they achieved that.

Okay.

20

THE COMMISSIONER: The distributor being Q Videos?---Q Video.

MR LLOYD: I mean, there appear to be only two possibilities, air freighted or container shipped?---Correct.

And we're looking at a large quantity of product for this job, correct?---Yes.

I want to show you an email, it's Exhibit 24 and we can see from the header that it's an email from Daniel Paul?---Yes.

30

On 3 March, '09 Tony M is Tony Morris of the Art Gallery and you're obviously Tony Yallouris. Meeting re Pelco/Lenel integration for the Art Gallery. Hi Terry, further to our telephone conversation earlier today Tony and I would like to meet with you at your office this Thursday and a two hour period's given, to review and discuss the Pelco product latest versions of software and potential for the Pelco Art Gallery relationship and on it goes. Before asking about the content, in relation to Tony Morris, as I understand it you visited the Art Gallery on a number of occasions - - -

40 THE COMMISSIONER: Who, you, you said? Mr Yallouris did?

MR LLOYD: Who, Mr Yallouris.

THE COMMISSIONER: It's not my recollection of his evidence but I - - -

MR LLOYD: I'm asking him.

THE COMMISSIONER: Pardon?

MR LLOYD: I'm asking him.

THE COMMISSIONER: I thought, oh, you're putting it to him.

MR LLOYD: I'm putting it to him.

I'm suggesting to you that you knew Tony Morris, correct?---I was introduced to Tony Morris, yes.

10

And you'd been introduced to him at the Art Gallery?---Yes.

And you'd gone to the Art Gallery to see what the needs of the Art Gallery were on this tender?---Yes.

And how many times did you go there?---A couple of times.

Okay. And on each occasion you met Tony Morris as well as Daniel Paul? ---I can't specifically say if Tony was there every meeting, but we did meet Tony Morris at the Art Gallery to do a walk around and have a look at - - -

20

THE COMMISSIONER: How many times do you - have you got an independent memory on meeting Tony Morris at the Art Gallery? ---Probably two times, two or three times.

No, independent memory. I'm not saying, what I mean by that is that you actually have a recall of meeting him there and you're not working out what must have occurred. So it's perfectly permissible to work out what must have occurred as long as you tell us that that's what you're doing?---Yep.

30

If you actually remember exactly what happened then you should tell us that's what your evidence is?---I can, I can recall two times of being there.

MR LLOYD: Now I want to suggest to you that in relation to the email that both Daniel and Tony came to your office. Correct?---Yes.

And they wanted to know about the availability of Endura 2.

THE COMMISSIONER: Is that after this email of 3 March?

40

MR LLOYD: After the email of 3 March. They came at the agreed time and they were asking about the availability of Endura 2?---I can't recall if they asked specifically about that, no.

You can't recall the meeting?---I can recall the meeting.

Well what was discussed?---It was to show them the Pelco Lenel integration.

Well that would have been Endura 2. Correct?---No. There was also an Endura 1.

And 2?---Yes.

Okay. So you showed them that it was working?---We showed them it was working.

Okay.

10

THE COMMISSIONER: Why did you show them Endura 1?---I didn't show Endura 1.

Sorry, what did you say about Endura 1 now, in your last answer?---No, he asked me whether the Endura, Lenel interface was Endura 1 and Endura 2 and I said it was available in both options.

I see. Thank you.

20

MR LLOYD: As I understand you showed them Endura 2 working or don't you recall?---I don't recall.

THE COMMISSIONER: Sorry, you showed them Endura 2 working?

MR LLOYD: Working, I'm suggesting they wanted to know it was available and would work.

30

THE COMMISSIONER: So what are you – could you answer that question. Do you recall that or not?---I don't recall whether it was Endura 1 or Endura 2, but I do recall the meeting.

Yes, I know you recall a meeting, but you're being asked about what happened at the meeting. What you recall about that?---No.

MR LLOYD: You don't recall. I have nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you Mr Lloyd. Mr Naylor, do you have any questions?

40

MR NAYLOR: No questions, thank you.

THE COMMISSIONER: No. Does anyone else want to ask any questions of Mr Yallouris? Mr Strickland.

MR STRICKLAND: Yes. You were asked about, a question at Exhibit 74. Have you got that? That's the – your 18 February email. Have you got that?---Yes.

Just go to page 539. You were asked about Mr Thompson writing to you saying, "Hey it's Dan. We're still hoping that Kings or Tony get it, but seems to be leaning towards Kings." Did Mr Paul ever make any comment to you which suggested that he seems to be leaning towards Kings before the contract was awarded?---No.

THE COMMISSIONER: I beg your pardon?---No.

10 MR STRICKLAND: You were asked about that meeting you had at the Art Gallery I think on 3 March?---I don't know the date but I recall - - -

It's exhibit – you were shown Exhibit 24 I think. Have you got that there?--
-That, that meeting was in our office.

That's right. Did you, did you ever tell either Mr Morris or Mr Paul that the Endura 2 was actually available at - as at that time i.e. orders could be made on the product then?---I can't, I can't specifically recall that, no.

20 THE COMMISSIONER: Sorry. Does that mean you can't recall whether that might have happened? You can't recall whether that happened or not or does it mean you can't recall it happening and therefore it didn't happen?---I can't recall specifically talking about that point.

MR STRICKLAND: Had you, had you been telling people at around this time, that is before the contract was awarded that the Endura 2's release was imminent?---We would have been - - -

30 You. Did you ever tell anyone at around this time before the contract was awarded that Endura's - that the release of Endura 2 was imminent?
---Possibly.

Do you recall that?---No.

THE COMMISSIONER: Do you, do you recall in your - the email in which you - the quote email, your quote email where you said that - words to the effect that the release date was April? Do you recall that?---Yes.

40 Did you tell anybody at about - did you tell anybody before the tender was awarded that the release date was going to be earlier than April?---Only if I got the same information from the factory that the product release date had changed.

And had you got that information?---I, I can't remember that.

So you don't know whether you told anyone or not?---No.

And would that information and I think we've gone through this before but I just want to check it. Would that information have come in writing?---Yes.

From America?---From America.

MR STRICKLAND: Thank you. I've nothing further.

THE COMMISSIONER: Yes. Mr Yallouris - Mr Strickland, when will we be in a position to tell Mr Yallouris whether he'll be required or not?

10 MR STRICKLAND: We'll make some enquiries by - we hope by Monday or Tuesday next week we'll be in a position to tell Mr Yallouris whether he's required but I just ask he not to be released just at this point in time.

THE COMMISSIONER: Yes. So, Mr Yallouris, you're not being released from your summons. You're free to go, you don't have to return here until you're asked. You will be told on Monday or Tuesday whether your presence will be needed or not. Is that - will you be here then?

---Understand. Thank you.

We can, we will be able to get in touch with you on Monday - - -?---Yes.

20 - - - or Tuesday in the usual way?---Yes.

All right. Thank you. You're free to leave then, thank you?---Thank you.

THE WITNESS WITHDREW

[12.33pm]

THE COMMISSIONER: Ms Lonergan.

30 MS LONERGAN: Commissioner, I call Tony Theissen.

THE COMMISSIONER: Mr Theissen, you're not legally represented are you?

MR THEISSEN: No, I'm not, Commissioner.

THE COMMISSIONER: No. Have you been caught all morning? I mean have you been in the hearing room all morning?

40 MR THEISSEN: Yes, I have.

THE COMMISSIONER: Have you heard me explain to Mr Thompson the protection that the Commission can offer to witnesses?

MR THEISSEN: Yes, I have.

THE COMMISSIONER: You understood what I said to him?

MR THEISSEN: Yes, I do.

THE COMMISSIONER: Would you like me to provide you with the same protection?

MR THEISSEN: Yes, please, Commissioner.

10 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given Mr Theissen and all documents produced by him during the course of his evidence at this compulsory examination 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 or thing produced.

20 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN MR THEISSEN AND ALL DOCUMENTS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS COMPULSORY EXAMINATION 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 OR THING PRODUCED.**

30 THE COMMISSIONER: Now, Mr Theissen, as you heard me say to Mr Thompson that order means that the evidence you give today cannot be used against you in any criminal or civil proceedings but should you not tell the truth and you are prosecuted and convicted and not telling the truth you will be liable to penalty that could involve imprisonment of up to five years. You understand that?

MR THEISSEN: Yes, I do.

THE COMMISSIONER: Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

40 MR THEISSEN: Under oath, thank you.

THE COMMISSIONER: Would you swear Mr Theissen in please.

THE COMMISSIONER: Ms Lonergan.

MS LONERGAN: Thank you. Please state your full name?---Anthony Theissen.

10 And where are you currently employed, Mr Theissen?---Pacific Communications.

And what, what are your duties at Pacific Communication?---I am a senior, senior sales engineer there.

Prior to that were you employed at Kings for a period?---I was.

When did you cease your employment at Kings?---Early June and commenced at Pacific Communications 1 July this year.

20 And when did you commence your employment at Kings?---Approximately April the year before.

Is there any reason why you left your employment at Kings in June 2012?
---There was. The, the role I was employed at Kings was an account management role which was to, if you like, be the interface between the customer and, and Kings and to quote for, for projects. When I commenced employment at Kings as I hadn't been in the integration side of the business for, for quite a number of years I spoke with the management there and we decided to, to put me into the projects side of the business, on the project
30 management side, and, and what actually transpired is that, and that was only meant to be for a six to eight week period and I ended up being in that role for probably around about 12 months.

Just, just to cut your answer short - - -?---Yeah, sorry.

- - - and it's my fault for asking an open question - - -?---Yeah.

- - - did your leaving Kings have anything to do with the circumstances the Commission is investigating?---No, it didn't, no.

40 In 2008, 2008 and 2009 were you business development manager at Q Video?---Yes, I was.

And what did that role involve?---That role predominantly involved the promoting of Q Video products to, to our customer base for consideration for their projects.

And at that time was Q Video a distributor of Verint and Pelco closed-circuit TV products?---Yes, we were.

Was Q Video an exclusive distributor of either of those products?---No, we weren't.

And do you know anything about an annual agreement between Q Video and Pelco?---I, I knew there were agreements in place but up until today I didn't know what the, what the, the body of the agreement actually held.

10

Did you know anything about how the body of the agreement might affect the way you did your duties, for example, your quoting of prices for integrators?---Yeah, it'd be that thing if we weren't quote the, that particular product and if we weren't hitting the sales goals then we would lose the access to the product.

So you don't have any understanding yourself from the answers you've just given as to any specifics of the annual agreement - - -?---No, I don't.

20

- - - between Q Video and Pelco US?---No.

How did, how did you in your role at Q Video keep abreast of developments in the closed-circuit TV cameras and systems area?---That was through conversations with the, the actual manufacturers, using the web for bringing myself up to speed with the technology that was available in the marketplace.

And that included looking at websites?---Correct.

30

Receiving bulletins?---Correct.

Did the manufacturers provide the bulletins to you or did you have to go out and seek them?---On some occasions the bulletins were provided to us and then sometimes I'd find them myself on the web.

In your position at Q Video did you have any or did part of your role require you to promote particular products to consultants?---The, yes. It would be all of our product range, if we had the, the opportunity to present our products then, yeah, it would, I'd try and present as much product as we possibly could to the consultants.

40

When you say as much product as we possibly could by that do you mean encouraging a larger amount of product to be used or promoting the different products that Q Video distributed?---Promoting the different products.

And was part of your job in late 2008, early 2009 preparing quotes for tender submissions for integrators?---Yes, it was.

And were you trained in that prior to late 2008?---No, I'd probably say that's what I built up as part of my skill-set over the, over the years that I've been in the industry.

And how many years are we talking about in terms of experience?---I've been - - -

10 IN relation to preparing tender submissions specifically?---Oh, I'd probably say around about 18 years, 18 to 20 years.

You heard some evidence from Mr Thompson along the lines of him receiving tender training, preparation for tender submissions training from Mr Daniel Paul, whilst you were working at Q Video were you part of that tender training?---No, I wasn't.

And were you told by Mr Thompson that that tender training by Mr Paul was taking place?---I can't recall actually having that conversation, no.

20 Was it part of your role at Q Video to keep consultants updated with the products that your company distributed?---In some occasions, yes.

You're saying some occasions - - -?---Yeah, it would depend if we, if we knew of a particular project or if we – 'cause the role as from a sales perspective is to, is to generate orders. If we had time then we would also try and contact the different consultants and promote our products. But it was trying to strike that balance between getting the orders in and also promoting the products.

30 Would you expect consultancy work in the industry to keep abreast of the developments with manufacturers, particularly regarding areas where the technology changes and improves over time?---Yes, I would. But if I could also add into that the – in that CCTV space the, the changes within technology do happen at a pretty rapid pace sometimes.

40 Was it the practice in the industry that companies such as Pelco would provide information to consultants and their distributing companies advising of what was being developed, sorry, what was being looked at in the development stage for future release?---Oh definitely. Pelco was a – their marketing arm was very strong and the, the amount of information, documentation that they would provide would probably be one of the best that I've seen.

Would they put that information on their websites?---Websites, CDs, product catalogues, yeah.

Between October 2008 and March 2009 were you working on any contracts or consultancies with Daniel Paul in addition to the Art Gallery?---Not that I recall.

Did Mr Paul Thompson have any role in preparing any documents for tenders?---No.

That was your job?---If you like, yeah.

10 And did you have – was any part of your role negotiating price for the product that was allowed to be quoted to the integrators?---Sorry, could you repeat that?

Yes. Your, in your role did you have a responsibility to negotiate price for the product you were quoting for integrators when you were preparing the quotes? So did you – I'll withdraw that. I've approached that - - -?---I think I understand the question.

20 THE COMMISSIONER: Did you fix the price or not of quotes?---No. We would, we would – if it was a large project we would, we would get in contact with the actual manufacturer for a, if you like, for a project price. Once we actually received that, that pricing we would then like create a spreadsheet and then we would then work out our, our freight costs, exchange rates and then what our margin would actually be for the project. That would actually be in discussion with management at that time.

You would do that in discussion with management?---Correct, sir.

30 Who's management?---That would have been my boss at the time.

Mr Thompson?---Mr Paul Thompson.

So this was done by you and Mr Thompson together?---Yes.

MS LONERGAN: You said we would contact the manufacturer, Mr Theissen?---Ah hmm.

40 Was it Paul Thompson that would actually contact the manufacturer or did you share that task?---We would share that task. Sometimes, depending upon the timeframe of the tender response, if, now I could create the bill of materials and I may send that to Paul and say, I need pricing on this, can you go and get that for me so I can continue.

Were you permitted to negotiate price independently of Paul's involvement?---I would never do that.

Sorry?---I wouldn't do that.

You would not do that. Thank you.

THE COMMISSIONER: He would not ever do that.

MS LONERGAN. Would not ever do that. Thank you. Can you keep your voice up a little, please. Now were you on a commission when you worked at Q Video?---Yes, I was.

10 And how was that calculated?---Commission was based upon a percentage of the gross margin that the, it was the base and a commission of the gross margin that the branch turned over.

And focusing on the Art Gallery can you recall now what the arrangements were there for negotiating prices that were then quoted to the integrators?
---Yes. For that particular project we – due to the size of it we were in contact with, with Pelco. We would create a bill of materials for the, for the project. Pelco would then provide us with the, the quotation and once again we'd put that into our spreadsheet to determine our final sell price.

20 Now you were invited by Mr Paul to be involved in a camera test at the Art Gallery in October, 2008. Do you recall the circumstances of that?---I do.

Do you have a recollection of what Mr Paul's explanation was for inviting you along to that camera test?---The - we had many a discussion about the cameras and the, and the fields of view and it, it's one of those things to look at it on paper to see what it's like. If you like it's like a proof of concept that the, that the, the products that Q was offering for consideration for the project would actually deliver the desired results for the client and for, for SCI.

30 Right. So if we can just place this, this meeting, this camera testing - - -?
---Yeah.

- - - in, in the timeframe, the (not transcribable) specifications were actually distributed in February 2009, 3 February 2009?---Correct.

40 So what I'm talking about at the moment is October 2008 which is some months before the specifications were distributed to the integrators and in your case the supplier?---Correct.

You understand that? When were you first invited by Mr Paul to become involved in the preparation for the Art Gallery?---It was round about that October of, of 2008. The, the actual camera trial I, I can't recall the exact date but I remember that it was very early in the morning though.

Right. I'll show you a document shortly about that?---Please, yeah.

But prior to being invited to take part in this camera test had you some discussions with Mr Paul about what your involvement may be in terms of assisting him?---We probably would have discussed, yes, what we would actually bring along, what we would actually demonstrate at the, at the particular trial.

From your answer can, can we discern that Mr Paul had told you that he was a consultant on the Art Gallery Project?---Yes.

10 And did he explain to you what it was he wanted from you in addition to doing the camera test or at that stage was it just a camera test and nothing more?---Sorry, could you repeat the question?

Yes. It might assist if I show you a document that gives you the date for the camera test and an email regarding it?---Thank you.

It's Exhibit 65 tab 11. And you see that's an email from Daniel Paul to you and Paul Thompson dated 3 October 2008?---Sorry, I'm just - was on the wrong page, sorry, yeah.

20

Yeah. It's at - there's tabs on the side which - - -?---Yeah. - - - have an 11 on the side?---Yes, I've got that now.

You got it?---Yeah.

Dated 3 October 2008 and it's an email from Daniel Paul. "We need to some testing of cameras from (not transcribable) on Thursday." See that? ---Yes, I do, yes.

30 Did you have a discussion with Daniel Paul prior to that about what assistance Mr Paul was seeking from you in relation to his role as consultant at the Art Gallery?---The - I can't remember the, the exact context of the, of the conversation but the - I guess the gist of it would have been that we want to make - - -

THE COMMISSIONER: No. Don't guess?---Sorry.

You don't guess?---I didn't say guess I said gist.

40 MS LONERGAN: He said the gist, the gist of it?---Gist.

THE COMMISSIONER: Gist?---Yeah, yeah.

I see.---Yeah, the gist of the conversation would have been to, you know to, to confirm that the or yeah, as I said before the (not transcribable) concept of the, the cameras and the other fields of view are going to be acceptable.

MS LONERGAN: Was there any other camera distributor companies or - I'm sorry, I withdraw that. Was there any other distributors present at the camera test that you attended?---No, there wasn't.

And at that stage did Mr Paul provided you with any documentation about the Art Gallery Project that he was working on?---Not that I recall.

10 And could the witness be shown Exhibit 65 tab 12. If you could turn to that in the bundle you have, Mr Theissen. And if you could turn to page 250 of that document. In the top right corner there's page numbers?---Yes.

And you see it's an email from Daniel Paul to Paul Thompson and you - - - ?---Ah huh.

- - - subject budgets?---Yes.

You see, "I'm preparing budgets for the Art Gallery", and he needs the trade prices on the Verint products?---Correct.

20 "We have about 220 cameras allocated. Now did Mr Paul contact you prior to this email on 3 October telling you that or asking you whether you could assist him with giving some trade prices or assist him with the budgets for the Art Gallery?---Not that I recall.

All right. And then if you turn to the page 249 there's an email from Mr Thompson copying you in. Now is that providing information regarding the type of cameras that are appropriate?---In Mr Thompson's email there basically when, if we go back to 250 Dan's put in there that at this stage we have about 220 cameras allocated for the project.

30 Yes?---To part of the solution for the CCTV programme would be how much storage that we actually require and so based upon that email from, from Mr Thompson I must have asked Paul about, okay, to determine the storage we need to know how many images per second, what the, the activity rate's going to be and things like that so we could start to build a, a storage pool.

40 So that email of Mr Thompson's suggests that he has received some information from Mr Paul in addition to what's in the email on page 250? ---No, because the, no because that, it would be a direct correlation between those two emails.

All right. And then on the, at the top of page 249 you come into the email trail and you, and your email refers to our discussions and then you attach what you believe Dan will require to work out the approximate pricing and then if you can turn to page 251 to 254 of that document, can you identify whether that's the attachment you're referring to there?---That's correct.

And what's, what's the attachment?---The, that document there is a, is a document that I prepared because the, at the time we weren't certain whether there was going to be or what the mix of cameras were going to be, whether they were going to be one megapixel cameras or two megapixel cameras, indoor cameras, outdoor cameras, so there's such a price variance between all of those that I decided to create a, a spreadsheet and as you can see the, the quantity column there is, it actually highlighted and there was a second page to the spreadsheet where the calculations were made and I was just trying to make everyone's life a little bit easier by creating that spreadsheet which would then give an account.

And can you assist with whether the, the cameras, the camera systems you're referring to there are only Verint or are there other alternative cameras priced?---We've, I have, there's actually three if you like types of cameras. There's an analogue camera range, there's a range of cameras from, from Verint and then I've also got a range of cameras listed there from Arecont, from two megapixel, three megapixel, five megapixel and eight megapixel.

20 All right. And did you - - -

THE COMMISSIONER: And Pelco?---No, sir, this is in regards to the Verint solution.

Oh, I see.

MS LONERGAN: Those three camera types, were they offered by you because you thought they would be suitable or because Mr Paul asked you to focus on those types of cameras?---Those, those products were actually part of our product range and so I presented those for consideration.

Is there any reason why you didn't present Pelco cameras and systems at that stage, that is, 6 October, 2008?---No.

THE COMMISSIONER: Did you know which was the preferred solution? ---At that stage, Commissioner, I was unaware of which was going to be the, the preferred solution.

40 MS LONERGAN: You're confident Mr Paul didn't mention to you that he was tending towards Verint as being the benchmark product for the closed-circuit TV part of the contract?---Dan may have mentioned that but I was also aware that Daniel and the Art Gallery were also looking at other products from, from other manufacturers as well so I think Dan may have put it forward that, yes, you know, we're interested in this product but he may have said that to, to all the suppliers as well.

Do you know for a fact that Mr Paul was talking to other suppliers about other types of cameras for the Art Gallery job or are you surmising this?

---I had heard if you like a bit of gossip through the industry that, that they were looking at, at what was available in the marketplace.

All right. And you see on page 247 right at the bottom there's an email from Daniel Paul to Paul Thompson and you, again headed Budgets?---Yep.

It goes over to the top of 248, "Thank you, great stuff. I will discuss the camera selection on Thursday. Yes, re Endura." Is that a reference to Endura - - -?---Sorry, I'm - - -

10

THE COMMISSIONER: Page 248?---On 248, sorry. Yes, I think so, yes.

MS LONERGAN: All right. Are you able to say what he's talking about there where he goes, he being Mr Paul, where he states, "Yes, re Endura. Thank you. I will speak with Terry re if they can meet the needs re megapixel or not." Do you see that?---If you have a look at the bottom of 248 there's that email from, from Mr Thompson.

20

Yes?---And the, the last line in Paul's email is, "Would you like the same for Endura as a comparison."

Oh yes. Thank you. All right. And then you say on page 247, "Endura, I will start putting this together"?---Ah hmm

And then you go on about an analogue camera solution because you don't have pricing or storage requirements for the megapixel cameras. Now just breaking that down the analogue camera solution is that a reference to Endura 1.5?---Correct.

30

And you don't have the pricing or storage requirements for the megapixel cameras, is that related to Endura version 2?---Correct.

Is it that simple?---Yes.

And so had you had a discussion with Mr Paul in addition to this email that at this stage you were only pricing the 1.5 because the Endura 2 wasn't yet available for you to obtain a pricing?---Correct.

40

And did you at that stage know that Endura 2 would have the type of camera function and storage requirements potentially that would suit the Art Gallery?---Correct. The, from the pre-release document from, from Pelco based around Endura 2 it was - we were aware of the product coming out but then it was a case of, you know, we now had to try and find out what the price point was actually going to be for the product.

Now, you say we, are you talking about staff at Q Video?---When I say we collectively I mean our branch to, to - - -

Did you also discuss that potentiality with Mr Paul?---Oh, yes.

Just focussing at this stage?---Yeah, yes, yeah.

Would you expect Mr - I withdraw that. Is that a convenient time, Commissioner?

THE COMMISSIONER: Yes. The Commission will adjourn till 2.00pm.

10

LUNCHEON ADJOURNMENT

[12.57pm]