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PUBLIC
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 MONDAY, 18 JUNE, 2012

AT 10.28AM

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

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

THE COMMISSIONER: This public inquiry is being conducted for the purpose of investigating the following allegations. One, Kings Security Group Pty Limited prior to providing and whilst engaged to provide security services to the Art Gallery of New South Wales, the former North Sydney Central Coast Area Health Service, the University of Western Sydney, Woollahra Municipal Council, Sydney Ports Corporation, Taronga Zoo, Department of Age and Disability and Home Care and the former Department of Housing, firstly provided benefits to public officials in return for those public officials exercising their public official functions in favour of Kings. Secondly, it was involved in collusive tendering for New South Wales public authority contracts, thirdly provided false or misleading information to public authorities to win public authority contracts.

10 The second main purpose for which this public inquiry is being conducted is to investigate allegations that Daniel Paul, the managing and sole director of Hootspah Pty Limited trading as Security Consultants International while engaged as a security consultant by the Art Gallery of New South Wales, the University of Western Sydney, Woollahra Municipal Council, Sydney Ports Corporation and Taronga Zoo firstly received second – received corrupt benefits from officers of Kings and others in return for exercising his public official functions in favour of Kings. And secondly, misused information acquired in the course of his official functions.

20 The third main purpose for which the inquiry is being conducted is to investigate allegations that Geoffrey Powell, consultant to New South Wales Business Link Pty Limited, received corrupt benefits from officers at Kings Security Group Pty Limited and others in return for exercising his public official functions in favour of Kings Security Group and misuse information acquired in the course of his official functions.

30 Thus, the general scope and purpose of this public inquiry is to gather evidence relevant to the allegations that I have mentioned for the purposes of determining the matters referred to in section 13(2) of the Independent Commission Against Corruption Act. I draw attention to the document headed “Standard ICAC Directions”. Counsel should find a copy of this document on the bar table. Those directions are hereby ordered to apply to this hearing. I shall now invite Counsel Assisting to deliver his opening address. There will then be a short adjournment. When we recommenced I will take the appearances of counsel and then the leading of the witnesses to be called will commence. Mr Strickland.

40 MR STRICKLAND: Commissioner, in 2009 allegations of corrupt conduct against Mr Daniel Paul were received by the Independent Commission Against Corruption. Mr Paul was the principal of a firm called Security Consultants International which I'll call SCI. SCI was the trading name of Hootspah Pty Limited, owned by Paul. The allegation related to Paul was “having a history of favouring Kings”. The reference to Kings is a reference to Kings Security Group Pty Limited. It was alleged in return

Kings paid for Paul's annual trips to the International Security Show in Las Vegas and may also have paid for the security manager of the Art Gallery of New South Wales to attend. Later the ICAC received allegations that Paul had attended Kings' offices assisting with tenders and rewriting specifications for tenders in relation to government contracts.

- The public inquiry will focus on (1), alleged bribes given by Kings to public officials in return for favours provided by those public officials in assisting Kings to secure government contracts and maximising their benefits from those contracts; (2) alleged collusive tendering; (3) the integrity of the tendering process in relation to those government contracts. After 2006 Kings made millions of dollars from government contracts. In the security industry integrators install security products by integrating various security systems into a single solution. Historically each electronic security component such as an electronic access control system and CCTV surveillance systems were installed as stand alone systems. Systems integration concerns connecting these various components into a single system. Suppliers sell electronic security system components to integrators. Security consultants provide expert advice on security solutions based on the customer's needs and budget.

- Kings' traditional business was lock smithing and master key systems. Kings later branched out into security systems integration, access control, CCTV, biometrics, intruder alarm monitoring. Its directors were Peter Roche and Charlie Diekman. Its business had grown considerably over the years. In financial year 2006 its total income was about \$6.7 million. In 2007 financial year its total income was about 10.4 million, in 2008 it was about 12.8 million, 2009 about 12.7 million and in 2010 about 15 million.
- 30 Daniel Paul and Kings worked together on a number of New South Wales Government contracts and they will be explored during this inquiry and also they worked on many private contracts.

- For many years Paul had developed an extensive network of contacts in the security services industry. He had financial, commercial and social relationships which supplied security products, integrators and public officials who are employees of various public authorities.
- 40 Paul had a particularly close commercial and financial relationship with Kings Security and a close personal relationship with one of the directors of Kings Charles Diekman. Paul and Kings have an ongoing personal and financial and commercial relationship.

From at least 2007 Paul and Kings attended the annual International Security Conference together with a number of people from product suppliers such as Q Video Systems as well as public officials who are influential in the awarding of tender contracts. The socialising at this

conference involved drinking and visiting various establishments and that was an important networking tool for Paul and Kings.

The first segment of this public inquiry will focus particularly on two tenders, the first involving the Art Gallery of New South Wales and the second involving the Northern Sydney Central Coast Area Health Service which I'll refer to hereafter as AHS, Area Health Service. The later segment of the inquiry will focus on tenders for Sydney Ports Corporation, Taronga Zoo, University of Western Sydney, Department of Housing and 10 the Department of Ageing, Healthcare and Disability. There was a common thread running through each of these tenders and these agencies. In this opening I will focus mainly on the Art Gallery and the Area Health Services.

In 2007 the Art Gallery decided to upgrade its security systems. Approximately \$1.8 million was allocated for that upgrade. Anthony Morris the head of security for the Art Gallery came from a security manager's position with Westfield Shopping Centre. Morris advised the Art Gallery to retain a security consultant to advise on a security upgrade. 20 Morris knew Daniel Paul because Paul had previously provided consultancy services to Westfield Group. Paul and others were invited by Morris to send their resumes and expressions of interest for security upgrade consultancy work to the Art Gallery. Three security companies were invited to tender for the security systems upgrade consultancy. Paul's company SCI was the lowest tenderer and was engaged by the Art Gallery.

As a consultant retained by the Art Gallery Paul was a public official within the meaning of the ICAC Act. Paul was required to develop a budget and provide advice to the Art Gallery on technical requirements. He was also 30 part of the Tender Evaluation Committee formed for the purpose of rewarding the Art Gallery security upgrade tender. There was a confidentiality clause in that agreement which provided that SCI could not disclose to third parties any information provided unless that information was already known to the public or the art gallery consented to that disclosure and a further a confidentiality agreement was signed between Art Gallery and SCI on 22 August, 2008.

Q Video Systems was a subsidiary of QRScience Holdings Limited. It's a seller and distributor of surveillance and monitoring equipment including 40 CCTV cameras, digital video recorders and security video management systems.

Paul had financial and commercial relationships with Q Videos which ultimately supplied the Pelco products to Kings in relation to Art Gallery, in relation to the Art Gallery security upgrade. Between August 2007 and June 2009 Q Video made a total of about \$68,000 in payments to Paul. The payments were allegedly for consultancy services for training and presentations, the majority of which appear not to have been provided.

In October 2008 Paul was requesting and receiving assistance from Q Videos. In October 2008 Paul disclosed to Q Video employees confidential information about the Art Gallery budget for the security upgrade.

Pelco USA produces video security systems and software solutions to the video security industry. Pelco Australia Pty Limited and I'll refer to that as Pelco, was set up in 2005 to mark a Pelco USA's products. Pelco products could be purchased either directly from Pelco by system integrators or by 10 any integrator through one of its accredited distributors. Q Videos is one of its accredited distributors.

The Pelco Endura product was essentially a CCTV camera system. Pelco Endura 2 was an upgrade from an earlier Endura system. Pelco Endura 2 required less disc space for storage the same amount of video footage without reducing the quality of the image.

In late 2008 Paul began cultivating a relationship with Morris. He provided Mr Morris with some gifts and he invited him to the International Security 20 Conference held in Las Vegas in April, 2009. One explanation for this conduct is that Paul wanted Morris on his side in order to facilitate the manipulation of the tender process in favour of Kings. This is consistent with Paul's modus operandi in relation to other agencies which are the subject of this inquiry.

From an early part in the tender process Paul allegedly manipulated the tender process in a subtle and sophisticated manner to favour Kings bid. Paul was the key figure during the entire tender process. He was the only person with technical knowledge of security products on the Tender 30 Evaluation Committee. The other members of that Committee relied heavily upon his advice.

There were at least three ways in which Paul is alleged to have manipulated the tender process to favour Kings. First, he allegedly assisted Kings during a tender process and the manner of that assistance will be explored during the inquiry. Secondly, Paul allegedly – misrepresented or connived in the misrepresentation by Kings to the other Tender Evaluation Committee members in relation to the Pelco Endura 2 product during the tender process. Thirdly, Paul worked closely with one distributor, Q Video in preference to other distributors and with one supplier, Pelco in preference to other suppliers. 40

In a report dated 31 January, 2009 Paul recommended to the Tender Evaluation Committee appropriate and available solutions to be used for the upgrade. He recommended a Lenel system for security access control and a Verint system for – sorry, and a Verint CCTV camera system. Paul was of the opinion then that the Verint CCTV system was the best interface available at the time. Paul recommended in that report that the tender

should be limited to invitees only and provided the TEC with a list of integrators certified to deliver the project with a nominated Lenel Verint solution. Kings was on that list. The TEC members were largely guided by Paul about what company should be invited to participate on the tender as well as which type of security products should be used. Paul also advised in his report that Hootspah, its directors and employees had “no links, ties, financial dealings or relationships with suppliers, integrators, manufacturers or others within the security industry”.

- 10 Paul also provided a statement of probity which contained clear statements that he was aware of problems of conflict of interest, real and perceived and he promised to declare any such conflict “precisely openly and without delay for consideration by the Art Gallery of New South Wales.” Paul allegedly failed to declare to the Art Gallery his various pre-existing commercial financial relationships and his pre-existing and current links with suppliers and tenders at any relevant time.

- Anne Tregeagle, the Art Gallery security upgrade project manager and a member of the Tender Evaluation Committee laid down some ground rules in relation to the tender process to Paul. She told Paul that all communications with the tendering party should be relayed to her and there'd be no response to any inquiry from the tenderers until “we” have reviewed the responses and “if we agreed”. Paul would respond to all of them equally. Tregeagle also advised Paul that she would expect any inquiries from suppliers to be conveyed to her, because that was relevant to the tender process. But it appears that Paul did not comply with those instructions.

- 30 Integrators and suppliers were invited by Paul to attend a mandatory site inspection of the Art Gallery on 6 February, 2009. Q Video, Q Videos was also invited providing its employees, Paul Thompson and Tony Theissen with an opportunity to meet potential tenderers and promote their products for the Art Gallery contract.

At this time Q Videos had already attended the Art Gallery with Paul and was aware of the requirements of the Art Gallery tender specification, the CCTV budget and potential camera locations.

- 40 Between 4 February, 2009 and the closing date of the tender of 23 February, 2009, Paul communicated with Q Video employees regarding a number of issues. Paul assisted Kings in its tender offer for the Art Galley contract. The precise manner in which he did this will be explored at this inquiry. At about this time Diekman was waiting on pricing and details for the Pelco product. On 19 February, 2009 Diekman had been provided with the Pelco Endura 2 pricing for the Art Gallery contract. On 20 February, 2009 he was provided with the Pelco Endura 2 system specifications. Significantly, this is the only quotation received by Kings for the Pelco Endura 2 system.

On 23 February, 2009 at 2.30pm the tender box for the Art Gallery tender was opened and the submissions were reviewed by the Tender Evaluation Committee comprising Morris, Tregeagle and Paul. Six integrators submitted a complying Lenel Verint solution to the Art Gallery. The access control products were manufactured by Lenel and the CCTV was manufactured by Verint. Several tenderers, including Kings, also put in alternative bids in relation to alternative products.

- 10 The TEC discussed each of the tenders and according to Morris began by looking at the bottom line, namely what was the contract going to cost the Art Gallery. Kings' initial tender bid was dated 23 February, 2009. Kings' primary bid was \$2.73 million excluding GST for the Lenel Verint products. Kings made an alternative bid based on the Pelco Endura 2 product of \$2.69 million excluding GST. This was even though the Pelco Endura 2 product was not yet available. The Kings' bid contained a section headed "Management of Conflicts" which claimed a commitment by Kings to managing actual and potential conflicts of interest. Potential conflicts were specified. They included (1) providing or accepting gifts from direct clients or intermediaries in respect of business written; (2) providing or accepting gifts from suppliers and service providers as an inducement in arranging purchasing goods and services.
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- 30 The Tender Evaluation Committee ranked one company, ACG, as first overall during preliminary assessment, before the first round interviews. Kings was ranked second. ACG is an experienced security systems integrator which undertook large security contracts such as Qantas. The principal of ACG was Mr Tony Grubisic who was also a close colleague of Paul's. At that stage the price of the bid was weighted at 50 per cent of the total score. On 23 February, 2009 Peter Roche, a director of Kings, signed a revised schedule of pricing. The pricing for the revised bid for Lenel Pelco was \$2 million plus GST. The new bid was some \$690,000 less than the original bid. This second bid was again based in terms of its CCTV system on Pelco Endura 2.

- 40 The TEC decided to hold interviews with three companies, Kings, ACG and SNP. Paul applied different conditions to different bidders. For example, he suggested to the TEC that tenders be asked in the interview what percentage of their company's annual security electronics turnover would the Art Gallery project represent to them. Paul advised the TEC that the answer should be greater than eight per cent and less than 25 per cent. However, Kings was the only company asked this question. Kings' response to that question was 22 per cent. After interviewing SNP the TEC decided not to proceed with their submission. On 27 February, 2009 the TEC held interviews with the two remaining shortlisted companies, ACG and Kings. Kings at the interview attended by Diekman, Roche and Dunphy, who was a specialist employed by Kings, Kings told the TEC that a new version of Pelco Endura, the Endura 2 was available on the market

and they could provide that product - they could provide the tender for \$2 million plus GST. That represented, as I said, a very significant reduction.

Kings said that they could reduce their bid because it was now based on the Pelco Endura 2 which is a cheaper product than the Endura 1.5 system.

Kings allegedly told TEC on the 27 February 2009 meeting that the first bid was based on the Endura 1.5 system. Kings put forward a revised pricing of \$2 million plus GST at the interview. The revised schedule containing the revised bid and signed by Roche bears the date 23 February 2009. It is

10 unclear whether this revised schedule was tabled at the 27 February interview or just or that simply the price was mentioned verbally.

At the end of the 27 February 2009 interviews Kings ranked first overall and ACG ranked second. At some stage after the interview the TEC decided to change the waiting given to the factor of price from 50 per cent to 40 per cent of the total score. Later in response to a written request by the TEC, ACG provided their revised submission quoting a price of \$1.948 million excluding GST. On 3 March Kings put forward their, their bid of \$2 million excluding GST.

20 As I said Q Video's only provided one quote to Kings for the AG, for the Art Gallery contract for the Pelco Endura 2 products and that quote was provided on 19 February 2009 four days before Kings initial submission to the Art Gallery. There was no evidence that further pricing for the Pelco Endura 2 product was provided to Kings before their interview with the TEC on 27 February 2009.

This inquiry will explore the circumstances for the significant reduction by Kings in the price of their tender between the first and second bid.

30 On 5 March 2009 the Art Gallery held second round interviews with Kings and ACG. Kings received a total score of 630 out of 800 and ACG a total score of 460 out of 800. This score was based on the amended rating. On 6 March 2009 Paul in his tender evaluation report to the Tender Evaluation Committee recommended Kings to be nominated for the tender. The state of justification for this recommendation will be examined at the hearing.

40 Morris, Tregeagle and Flannigan endorsed the recommendation. Paul's report notably omits any mention that ACG had also submitted a revised bid based on the Pelco Endura 2 solution. It appears that Tregeagle, Flannigan and Morris believed that ACG never provided a submission or bid based on the Pelco Endura 2 and that the reason for the Kings reducing their revised bid was its use, that is Kings use for the first time of the Pelco Endura 2 product.

I anticipate you'll hear evidence from other TEC members as to the reasons they give offering Kings and ACG an opportunity to provide a revised bid based upon a different product.

The Art Gallery and Kings experienced a great amount of difficulty with integration. Eventually Damien Dunphy of Kings developed software to overcome the problem in mid 2010. Kings failed to meet the tender specification in relation to integration and various other items such as the provision of remote access via laptop to Morris, however there is no evidence at all that the security system eventually installed by Kings was defected in any way.

- 10 The inquiry will examine whether Paul received payments or benefits from Kings and Q Videos after the awarding of the tender to Kings and (b) whether any such payments or benefits were corrupt payments or bribes provided to Paul because of his favourite treatment of Kings and Q Videos during the tender process.

- Right. I'll now refer to the Area Health Service. In about 2003 the Northern Sydney Central Coast Area Health Service wanted to standardise its key management system. The different hospitals managed by AHS each had its separate engineering department which managed individual key systems for the different hospitals. The AHS used different locksmiths and locking systems throughout the hospitals. The AHS sought to have the management of the key system transferred from individual local engineering departments to a centralised security services department at Royal North Shore Hospital.

- 20 A tender process was arranged to identify a suitable locksmith company, supply and install a master key system. The plan was to use a master key system within all the AHS hospital and community health centres. Kings won the tender and Robert Huskic was allocated the role of finalising and implementing the new master key agreement. Huskic was a permanent employee of AHS from March 2003. His job was to project manage security equipment installations within AHS. Huskic was involved in the tender evaluation process and the negotiation and implementation of this master key agreement.

Huskic was not authorised to purchase requisitions such as security installations, however he did make recommendations. I anticipate the evidence will be that in certain contracts his recommendations were adopted without any proper oversight by his superiors.

- 30 40 The original intention of having a single master key system to be rolled out in all hospitals and community health centres proved to be too expensive. The AHS decided the Central Coast hospitals and community health centres would remain on the bi-lock system and the North Sydney hospitals and community health centres would have the Abloy Protec system.

Eric Kuiper, Eric Kuiper was a permanent employee of AHS since 1980. In relation to project work his line manager was Cameron Creary, the security manager, his line manager was Stuart Adams. Creary was permanently

employed by AHS since 15 March, 1995. He was the security systems administrator. He was responsible for the day to day management security systems and project management of building design and refurbishment for every hospital within AHS.

- AHS signed an agreement with Kings dated 3 April, 2006 for the provision of a master key system. Kings became the preferred supplier of locksmith services in 2006. There was a third party to the agreement Abloy key system which actually provided the keys. Scott Anderson, the area manager 10 for security estimated the contract would be worth about 30 to \$40,000 per annum.

- On 3 February 2007, Kings paid \$11,000 to Daniel Paul in relation to a job purportedly done by Paul at Wyong. The payment was said to be for the development of a policy and procedures manual for the management of the area wide Abloy registered key system. It is alleged that no such policy and procedure manual exists within the AHS and the circumstances of that payment will be examined in the inquiry.
- 20 On 13 April 2007, Huskic emailed Diekman, copied to Roche stating that as previously discussed, “we would like to arrange to have all of the current hospital key systems maintained by Kings. Our current situation of having to contact other local locksmiths for single key orders is not practical.” Huskic asked Diekman if he could prepare a letter to send out to the locksmiths requesting all key systems to the AHS to be handed over to Kings so that Kings could get all required information. After this decision was made to have Kings arrange all current hospital key systems, the business which Kings Security wrote for AHS increased dramatically.
- 30 The total amount of money paid to Kings Security in relation to work they carried out was almost \$5 million between 2006 and 2012. The great majority of which was paid during four years between 2007 and 2011.

When Huskic, Kuiper and Creary were stood down the contracts awarded to Kings Security dried up. In addition to the master key agreements, Kings entered into a large contracts with Kings to install security systems at Wyong Hospital and also at the Gosford Mental Health Unit and also a car park at Gosford Hospital. And the circumstances of Kings entering into those contracts will be explored later on in this inquiry.

- 40 In January, 2009 Creary and Huskic sought the endorsement of Scott Anderson to replace the current alarm monitoring system, sorry, the current alarm monitoring company Boss Safes & Security with Kings. In April/May 2009 Kings had taken over the alarm monitoring functions, 71 AHS sites. The alarm monitoring and services work, which included, which included repairing alarms worth about \$100,00 per year to Boss Safety & Security. The owner of Boss Security, Steve Young, stated that the first he

knew about losing the work was when he was contacted by the alarm monitoring centre and told that Kings had taken over.

- In January 2010 Huskic provided Kings with a written reference to support Kings' application for preferred contractor status with the Department of Commerce. Huskic was also a referee for Kings in the Art Gallery tender contract. In May 2010 a second Master Key Agreement, drafted by Huskic, was renewed on the recommendation of Scott Anderson after consulting with Huskic. It approved by Wendy Hughes, Director of Financial
- 10 Operations. The agreement was renewed without calling for fresh tenders. The April 2006 agreement only allowed CPI increases during the term of the agreement. The 2010 agreement provided for an annual price review in addition to CPI increases. Scott Anderson was unaware of those price increases. He understood the price increases in the 2010 Master Key Agreement to be based upon CPI and manufacturer increases only. The fees charged by Kings Security for the keys and cylinders and locks in the Master Key Contract were in the order of 60 to 65 per cent higher than the original 2006 contract. The circumstances in which that 2010 agreement was renewed will be examined at this inquiry.
- 20 The Code of Conduct for New South Wales Health was issued on 20 October, 2005. Creary, Kuiper and Huskic all signed that they had read and understood the requirements of that Code. The Code applied to all staff with the AHS between 20 October, 2005 and 20 October, 2010. Under the section "Conflict of Interests" each employee gave a number of undertakings relating to conflict of interest, not accepting any gifts or bribes or benefits and the need to disclose even small gifts or tokens that were accepted. Sorry, and the need to disclose any small gifts or tokens that were accepted. The inquiry will investigate whether the Code of Conduct was breached.
- 30 But some period before June 2007 a general finance meeting was held at Kings attended by Roche, Diekman and Poller. Poller was the finance manager at Kings. Diekman told Poller at that meeting that Kings provided gifts to different key players including consultants so that Kings would remain visible. Roche expressed his view at that meeting that he felt this practice was "dirty". I anticipate you will hear evidence that Huskic, Creary and Kuiper received cash payments and/or gifts and benefits from Kings Security in return for significant contracts Kings entered into with AHS.
- 40 Between 2007 and 2010 Huskic received at least the following benefits from Kings Security, significant payments of cash, installation of an alarm at his cousin's house at a significant discount, the installation of new door locks by Kings Security when he moved to a home unit in Dee Why, a Vespa scooter with accessories, accommodation and meal expenses when Huskic attended with Diekman of Kings at the ISC Conference in Las Vegas in 2010. Huskic also attended a number of social functions with Kings Security personnel at Kings' expense including football games, dinners and the like.

Creary received at least the following benefits in 2007 from Kings: a plasma TV, the purchase of a 2004 Holden Commodore sedan and possibly a cash payment. None of the gifts from Huskic or Creary were declared. The inquiry will explore whether those benefits were a reward for Huskic and Creary exercising their official functions as employees of AHS in favour of Kings.

- 10 In November 2010 Kings agreed to provide a \$6,000 sponsorship to a football club in which Kuiper was involved. I anticipate that Kuiper will give evidence that he split contracts in order to award them to Kings without the need to obtain approval from his managers. Kuiper also admitted to attended lunches with Kings' staff arranged by Huskic. These lunches were paid for by Kings. Kuiper also admitted to receiving a second-hand television screen and having the locks on his front door repaired by Kings.

- 20 The following agencies will be examined in the forthcoming segments in July and August this year, I will only touch on them very briefly now. First Sydney Ports Corporation. In 2006 Sydney Ports Corporation engaged Paul to provide some advice regarding access control and security. Also senior staff were employed by SPC to do this work it was outsourced due to lack of time and expertise.

In January 2007 Paul introduced Kings to SPC and provided hospitality to SPC staff at an overseas conference knowing that in a group travelling together with senior staff from Kings and other integrators you'd invite tender on SPC work.

- 30 In October 2007 Kings and Austek were provided by Paul, SPC to tender for SPC work worth approximately half a million dollars. The circumstances surrounding this tender will be examined.

In particular it is alleged that there was collusive tendering between Austek and Kings whereby in October 2007 Kings directed Charles Diekman provided a proposed tender breakdown and pricing of the contra for the work to Austek. Sorry in pricing of a contract for the work to Austek. Austek then submitted a tender proposal that was slightly more than the Kings quote.

- 40 I anticipate that there'll be evidence that collusive tendering is rife in the industry and that Kings and its offices were party to it on a number of occasions.

But the GAP - in 2008 Woollahra Council adopted a master plan to assist police in suicide prevention of the GAP Watsons Bay. The plan was to include among other things CCTV. Paul was engaged to provide technical advice and participate in a tender evaluation process. Council employees on the panel they relied on Paul due to their lack of relevant and technical

knowledge. The tender was open between 7 July and 6 August 2009. Kings responded to the tender advertisement.

Paul allegedly favoured Kings in the tender process and provided direct assistance with the preparation of their tender submission as well as more subtle assistance during the tender evaluation process. Kings won this tender valued at more than \$400,000. The public inquiry will examine the circumstances surrounding stage 2 of the GAP works valued at approximately half a million dollars.

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While it does appear that there was no corrupt conduct in relation to the appointment of Kings for the second stage of the GAP Park CCTV project Kings benefited by the fact that they awarded the contract for stage 1 of the works.

In 2006, sorry Taronga Zoo. In 2006 would engage as a consultant to Taronga Zoo. Paul allegedly manipulated the tender process for CCTV contracts by inviting only companies connected to him or which were run by his friends to tender for the works.

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In early 2007 Paul assisted Kings by providing confidential zoo information to Kings.

University of Western Sydney. In 2007 Paul allegedly conspired to manipulate the UWS access control concept 4000 tender evaluation in favour of Kings. Kings allegedly did this by asking an Inner Range director Vin Lopez to alter Inner Rage's records to show that Kings had significantly more certified technicians than any other tender applicant. Paul was a member of the tender panel, he favoured Kings by highlighting the

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accreditation situation and the evaluation process. Kings was awarded the contract which had a value of over \$1 million. Paul also provided assistance to Kings in the nature of confidential information and assistance with variations for the contract which were against the interests of his employer or his principal contractor UWS.

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Department of Housing. In 2008 Kings allegedly made two payments to a security consulting firm IPP Consulting relating to the award of Department of Housing contracts to Kings. The circumstances surrounding the awards of these contracts and collusive tendering with ACG another security company will be explored in this inquiry.

Department of Ageing and Health Care and Disability. Kings allegedly made corrupt payments to Geoffrey Powell an interior design firm called Interarch which did project consulting work in and around 2009.

This inquiry will explore collusive tendering on the part of Kings and MJH Security in relation to the Department of Housing contracts.

This inquiry will also examine what factors allowed any allegedly corrupt conduct to occur and consider what systematic changes can be made to prevent the conduct from occurring. I anticipate the evidence presented at this inquiry will raise a number of issues relevant to corruption prevention. First did Government agencies fail to put in place adequate safeguards to deal with their lack of internal security expertise.

- 10 The design and installation of high end security systems is a complex and specialised area requiring an integration of different security and communications sub systems. This involves product expertise as well as IT, engineering, electrical knowledge.
- Most of the agencies involved in this investigation had limited internal capabilities in this area. Most agencies responded to the challenges of undertaking a specialised project by hiring an external security consultant to provide advice. These agencies failed to put in place any safeguards to verify the advice they received. Instead there was a general view that the external security consultants provided a layer of probity as their independence safeguarded the process.
- 20 The agencies failed to recognise the security consultants were not independent in the security industry. The agencies also failed to recognise the degree of trust they had placed in security consultants such as Daniel Paul. It was a corruption risk especially given the potential for a consultant engaged on numerous short term contracts to experience conflicts of interest and conflicting allegiances. The role of the consultant was rarely clearly defined. Once a consultant was engaged, his role extended beyond providing expert advice.
- 30 Consultants were used by some agencies as project superintendants and contractor administrators. In many ways the consultants were handed end to end control over the security projects as public sector managers effectively outsourced accountability. The consultants scoped projects, wrote tender specifications were adopted often without scrutiny. Had full budget knowledge, selected and installed such as Kings to bid for work, advised on security products, influenced members of Tender Evaluation Committees, wrote tender evaluation reports and played a key role in approving project variations.
- 40 The second issue whether government agencies failed to conduct appropriate procedures for the engagement of consultants and installers. Procurement is a major source of corruption in the New South Wales public sector. The inquiry will examine whether agencies undertook proper due diligence inquiries into Daniel Paul and Kings.

The Age and Disability and Home Care office upgrade project management was outsourced to Geoffrey Powell who has an extensive criminal history. The outsourcing agency did not conduct any criminal record checks on

Powell despite advertising its services as an organisation accredited to provide criminal background checks.

Another issue is the appropriateness of the tender method adopted by the agencies. Should an open tender have been adopted rather than a tender by invitation in order to increase the prospects of competition and reduce the opportunity for collusion between tenderers.

- 10 A third issue is whether government agencies lack sufficient project and contract management capabilities. A number of the security installation contracts were poorly managed which made the agencies vulnerable to corruption. The project management of large projects is a specialised discipline. In one agency the security installation project was project managed by a public official with no qualifications or experience in project management. The lack of project management capability in the agencies at the time was evident in the areas of budget oversight, inventory control, control over variation to the contracts and the manner in which project management roles were outsourced.
- 20 Some agencies have taken measures to address their poor management capability. For example, University of Western Sydney has introduced a professional project management system to address previous deficiencies.
- A fourth issue is whether government agencies have proper governance arrangements in place to provide a safeguard against corrupt conduct. Some of the government agencies were potentially in breach of the State Contracts Control Board purchasing delegations, namely that the purchase of any goods or services over \$150,000 in value must be referred to the New South Wales Procurement. That figure is now \$250,000 since April 2009.
- 30 Some of the agencies have dealt with the issue of gifts poorly. And those agencies have failed to recognise the risk of gifts influencing or being seen to influencing their staff. Some agencies did not adequately manage conflicts of interest between staff and consultants. Most agencies required some form of declaration of conflicts of interest, but such requirements were never expanded to include professional associations.
- 40 Businesslink does not explicitly require its consultants or architects to disclose financial arrangements with installers such as Kings, including arrangements arising from a contract managed on behalf of Businesslink. All public sector agencies were and are required to comply with the Premiers Department guidelines for the engagement and use of consultants, however there is little evidence to suggest that the agencies considered the guidelines or were even aware of their existence. The guidelines cover issues such as determining the need to engage a consultant and the conditions of that engagement.

Another aspect of poor governance was the lack of oversight by senior management of project managers who liaised with Kings Security. For example, management in the Area Health Service, sorry, managers in the Area Health Service signed or approved contracts for significant sums of money which they either did not read or which they were not familiar. Here we'll examine what processes existed to manage and oversee the numerous contracts entered into by Kings.

Thank you, Commissioner.

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THE COMMISSIONER: Thank you Mr Strickland. The Commission will now adjourn for ten minutes and when you return I will take appearances.

SHORT ADJOURNMENT

[11.16am]

THE COMMISSIONER: Yes, I'll take representations now.

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MR NAYLOR: If the Commission pleases, my name is Naylor. I seek leave to appear on behalf of Peter Charles Diekman. I am instructed by Mr Chalmers, solicitor.

THE COMMISSIONER: Yes, thank you, Mr Naylor. You're appearing you say for Mr - - -

MR NAYLOR: Diekman.

THE COMMISSIONER: Yes, thank you.

30

MR NAYLOR: Thank you, Commissioner.

MR LLOYD: Commissioner, Ian Lloyd of Queens Counsel.

THE COMMISSIONER: Yes.

MR LLOYD: I seek leave to appear with my learned junior Dr Tom Hickey for Daniel Paul.

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THE COMMISSIONER: Yes, you have leave, Mr Lloyd.

MR LLOYD: Thank you, Commissioner.

THE COMMISSIONER: Yes, next.

MR SMITH: Commissioner, Justin Smith. I seek leave to represent the Art Gallery of New South Wales and Ms Anne Flanagan.

THE COMMISSIONER: No conflict there?

MR SMITH: No, Commissioner .

THE COMMISSIONER: Are you sure?

MR SMITH: Yes, Commissioner.

THE COMMISSIONER: Very well, you have leave.

- 10 MR DUNNE: My name is Dunne, Commissioner, D-u-n-n-e. I seek leave to appear on behalf of Allison Newman.

THE COMMISSIONER: Yes, you have leave.

MR MAHER: Commissioner, Brendan Maher, solicitor, I seek leave to appear on behalf of Peter Roche.

THE COMMISSIONER: Yes, you have leave.

- 20 MR WALKER: Commissioner, Matthew Walker, I seek leave to appear on behalf of Cameron Creary.

THE COMMISSIONER: Yes, you have leave.

MR STEWART: Commissioner, Stewart, solicitor. I seek leave to appear on behalf of Mr Kuiper.

THE COMMISSIONER: Yes, you have leave. Do you also appear on behalf of Mr Eschbank?

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MR STEWART: I do appear (not transcribable) in the second degree, I also seek leave to appear on behalf of Mr Eschbank at this stage as well.

THE COMMISSIONER: And there's no conflict there?

MR STEWART: There's no conflict, Commissioner.

THE COMMISSIONER: Very well. Yes.

- 40 MR MULLEN: Commissioner, Mullen, solicitor. I'm instructing Ms Furness of senior counsel for the two named local health districts.

THE COMMISSIONER: Yes, very well.

MR McILWAINE: Commissioner, McIlwaine, solicitor, I seek your leave to appear for Mr Greg Poller.

THE COMMISSIONER: You have leave, Mr McIlwaine.

MS McGLINCHEY: Ms McGlinchey, Commissioner, I seek leave to appear for David McMicking.

THE COMMISSIONER: You have leave, Ms McGlinchey.

MS HUGHES: Hughes, solicitor, Commissioner, I seek leave to appear on behalf of Mr Huskic.

10 THE COMMISSIONER: You have leave, Ms Hughes.

THE COMMISSIONER: That's all is it? Mr Strickland.

MR STRICKLAND: Commissioner, for the benefit of those at the bar table, the witnesses I propose - the first four witnesses I propose to call are Mr Diekman first and then not necessarily in this order, Mr Poller, Mr Roche and Mr Paul and I anticipate that those four witnesses will be some time.

20 THE COMMISSIONER: Yes.

MR STRICKLAND: I call Mr Diekman.

THE COMMISSIONER: Yes. I should say that any counsel who wishes to withdraw because they have no interest in these witnesses have liberty to withdraw now.

MR LLOYD: Commissioner, before my friend starts with the witness could I raise a couple of housekeeping matters on behalf of all of us?

30

THE COMMISSIONER: Yes.

MR LLOYD: And it may be out of ignorance on my part that I raise these matters. I saw, Commissioner, that my learned friend in opening, and together with you, Commissioner, were reading from an obviously typed opening. Could I ask that we be given a copy of that typed opening as soon as possible.

40 THE COMMISSIONER: Well, it will be transcribed and the transcript will be on the Internet.

MR LLOYD: It brings me to the next point, Commissioner, I gather the practice will be the same in this hearing as previous public hearings where the transcript will be on the website?

THE COMMISSIONER: Indeed.

MR LLOYD: Thank you, Commissioner.

THE COMMISSIONER: Now, Mr Naylor.

MR NAYLOR: Commissioner, I was going to seek a section 38 declaration for the benefit - - -

THE COMMISSIONER: Yes, you've explained that - - -

MR NAYLOR: Yes.

10

THE COMMISSIONER:- - - to the witness. Please be seated.

Pursuant to section 38 of the Independent Commission Corruption Act I declare that all answers given by Mr Diekman and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having 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 CORRUPTION ACT I DECLARE THAT ALL
ANSWERS GIVEN BY MR DIEKMAN AND ALL DOCUMENTS
AND THINGS PRODUCED BY HIM DURING THE COURSE OF
HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE
REGARDED AS HAVING 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: Mr Diekman, you - it's been explained to you that the effect of that order the evidence you give cannot be used against you in any criminal or civil proceedings but it will not protect you if you do not tell the truth. Do you understand that?

MR DIEKMAN: Yes.

THE COMMISSIONER: Yes, Mr Strickland.

40

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

MR DIEKMAN: Under oath.

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Mr Diekman, if I could ask you to speak slowly and clearly because everything you say is being transcribed. If there's any question I ask you that you don't understand please feel free to ask me and I'll repeat it or I'll try again?---Yes.

10

So what's your full name?---Peter Charles Diekman.

And your occupation?---Currently?

Yes?---I'm doing the stock marketing of investments.

And previously you've been in the security industry. Is that correct?
---Correct.

20

How long have you been in the security or how long were you interview the security industry for?---Over 20 years.

And when did you start with Kings?---I acquired a small lock smithing business around 1990 and grew it from there with the help of staff.

You founded the business?---Well I acquired it, it was a business that was already going, it was just a small lock smithing business that was already operating.

30

If you can just speak up a bit?---It was a small lock smithing business that was already operating that was - had some financial difficulties so I, I acquired it.

When did it become Kings? Approximately?---10 years ago.

Okay. And when did Mr Roche become a director of the company?---12, 14 years.

40

THE COMMISSIONER: Mr Strickland, can I just say these proceedings are intended to be public so if persons cannot hear the witness if they could just make this clear and we'll attempt to remedy the situation.

MR LLOYD: Like I say, Commissioner, I'm only two rows back and I'm struggling to hear. I don't know how those at the back could possibly hear.

THE COMMISSIONER: Steps are being taken. Yes, Mr Strickland.

MR STRICKLAND: So is it the case that you owned about 51 per cent of Kings?---That's correct.

And who owned the other 49 per cent?---Peter Roche.

And is it the case that the turnover of Kings grew steadily over the last five or six years?---Over the last 20 years.

And do you still have an association with Kings?---I'm a shareholder.

- 10 Do you get paid by Kings?---I get paid dividends.

And about how much dividends do you get paid?---Is that in the of interest of the public?

THE COMMISSIONER: Just answer questions, please, Mr Diekman?
---Well it depends on the profit of the company. This year approximately \$250,000.

- 20 MR STRICKLAND: Do you still do any work for Kings?---I talk to the sales team or I talk to the general manager of sales currently on probably a daily basis just - it's just over the last year when he's joined the company so to ease him in and give him some advice where I can and so. But I don't - I haven't been in the office, I've been probably twice in the last year just to sign documents.

Do you get paid for any of the work you do now?---No.

- 30 I want to ask you some questions about the financial management of Kings when – at the time when Greg Poller was the finance manager?---Yes.

And then later when Mr Marinucci was. Okay?---Yes.

So Greg Poller was Kings financial manager. Is that correct?---Correct.

And do you know from when?---Do you want me to guess?

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

- 40 He was, as the financial manager, he had the overall financial responsibility for Kings finances. Is that correct?---He was in charge of the bank account, yes.

And he also had employees working under him. Is that correct?---Yes.

I just want to ask you some questions about Kings expenses. Kings did have contractors working for them from time to time didn't they?---Yes.

And if a contractor did a job for Kings and they rendered an invoice?---Is that right?---Yes.

And they were paid for that invoice?---Yes.

And do you agree that they were paid for the invoice either by crossed cheque in the name of that contractor or by an electronic bank transfer to the contractors company or to the contract?---It would probably be a bit of everything.

10

THE COMMISSIONER: I beg your pardon?---A bit of everything.

What does that mean?---Direct debit, cheque, cash.

MR STRICKLAND: So you don't agree that they were the two principal means by which contractors were paid, that is by direct debit, bank transfer or by Cheque?---They're the two principal means, yes.

20

But you say they were also paid for by cash. Is that right?---On occasion I've had a habit of paying contractors cash for working out of hours.

Okay. And when they were paid cash for working out of hours was it you who paid them cash?---Yes.

THE COMMISSIONER: Did you get a receipt?---Not that I, on occasions.

You were about to say no?---Well not that I can recall but I - - -

30

You can't recall any time when you got a receipt?---Oh, if I went down to the hardware store and paid cash or went and bought some parts and paid cash I probably got a receipt.

What's the biggest amount of cash you ever paid?---5,000.

To whom?---A builder.

You're guessing now?---Yes. I can't recall, well I can't recall. I mean if we were doing a project and we were going to get the electrician or the builder to carry out some works for us, sometimes I paid them cash.

40

Why?---They probably didn't want to work on the books and because it might have been after hours or - - -

But you were prepared to defraud the tax office?---I'm not defrauding the tax office.

What were you doing then?---Well I'm paying them cash. I don't - - -

Why were you paying them cash?---Well that's up to them to declare it.

But you were helping them weren't you?---Helping in what?

Don't play the innocent Mr Diekman. You were helping them defraud the tax office if that's what they wished?---No.

Well why did you pay them cash?---They probably wouldn't do the work unless we paid cash.

10

Probably wouldn't do the work. Name one?---A builder, a painter, a - - -

Name?---I have no names.

Yes, Mr Strickland.

MR STRICKLAND: How often did you pay cash to a contractor?---Not often.

20

Are we talking once a week, once a month, once a year?---Oh look it just depends on when the jobs (not transcribable) maybe a couple of times a month, no sorry, a couple of times in one month and then nothing for six months.

When you paid cash to a contractor - - -?---Mmm.

- - - that was for a legitimate job that the contractor did. Correct?---Correct.

30

So obviously Kings would want to claim that as a business expense?---I assume so.

So I take it then that when you paid cash to a contractor - - -?---Mmm.

- - - you communicated to Mr Poller or someone from the finance department or finance section - - -?---Ah hmm.

- - - in Kings as to the fact that you paid cash? How much cash you paid, to whom and for what job. Is that correct?---That's probably the correct way but it's probably not the way I went about it.

40

That's not the way you did - - -?---Yeah.

- - - do it or would have done it?---No. That's not the way I would have done it. I just asked for some cash to pay for, to pay for a contractor or pay for a job.

So and who did you ask for the cash?---Greg, well the accountant at the time.

All right. And when you say the accountant you, you mean the - you're not talking about your accountant outside the firm you're talking about the person - a person you employ such as Mr Poller or Mr Marinucci. Is that right?---That's correct.

So you asked and I'll just stick with Mr Poller for the moment, you asked Mr Poller for some cash. Correct?---Yes.

- 10 And did he give you actually physically cash or did you - or did he give you a cheque made payable to cash?---Cheque made payable to cash.

And did you at that stage tell him what that cash payment was for so that he could make the appropriate entries into the company records?---At, at times I did, yes.

Right. But you're saying at times you didn't?---Well at times I may not have, at times I'd just say can you put it to this job over here or any certain job.

- 20 I've just missed it. This job or what?---Put the cash to a job.

Right?---Yes.

But, and also to a particular contractor?---Yeah.

Is that right?---Or a job, just book it to the job.

Okay.---Mmm.

- 30 THE COMMISSIONER: Did you identify the job?---Yeah. In most cases I believe I did.

In some cases you didn't?---I said most cases I believe I did.

But in some cases you didn't?---I can't, I can't recall.

And you never recall a case when you didn't identify the job against which the cash payment was to be booked?---No.

- 40 MR STRICKLAND: It's the case isn't it that Mr Poller wanted to ensure that all expenses were properly recorded in the company account, he, he told you about that didn't he?---You have to ask him that.

No. I'm asking you?---Whenever you asked for cash from him - - -?---Ah hmm.

- - - he always asked you information which would allowed him to recall the expenses recorded - so he could record them in the company accounts?---I, I can, I can recall times he'd ask but I can't say whether he asked every time.

But can I suggest there would be - I withdraw that. Is there any reason why on any occasion you would not give Mr Poller information which would allow him to record a cash payment made to a contractor so that he could claim it as a business expense for the company?---If there were the occasions it would have been my tardiness and not providing him
10 information.

Are you saying he didn't come back at you later and say - - -?---At times he did.

- - - give us the information?---At times, he was on my back a lot and I would avoid him if I, if I didn't have the information.

And were there times that you asked Mr Poller for cash for non business related expenses?---Probably.

20 Well I'm asking you to - whether you can recall any - - -?---I'd ask him for cash all the time. What he did with it whether he put it to my dividends or whether I - he'd give me cash just give me a cheque I don't - you know.

But you, you've given some evidence about you asking cash to pay contractors for - - -?---Mmm.

- - - which did work for Kings?---Yes.

30 You've just given that evidence?---Yes.

And what I'm asking for is now a different area?---Mmm.

Have you ever asked for cash from the Mr Poller when he was the finance manager - - -?---Mmm.

- - - for non business expenses, your personal expenses?---I may have asked him for a cash cheque and what he did with it whether he put it down to my dividends or I don't know what he'd do with it.

40 THE COMMISSIONER: That's not an answer to the question?---I can't recall.

MR STRICKLAND: You can't recall a single occasion when you asked Mr Poller for cash for your own personal needs?---I'm not saying I haven't, I just can't recall a time.

Now, the, the company had a chequebook, is that correct or chequebooks?

---Correct.

And you have your own personal chequebook?---No.

Now, the company chequebook was kept in either a locked safe, is that correct?---Correct.

Or was it ever out of the locked safe other than, other than when Mr Poller was writing cheques in it?---Ah - - -

10

Well, in other words was it always kept in the safe for safe-keeping other than when cheques were written?---It was supposed to be but I know times when I've turned up there and there's - no one's in the accounts department and there's the chequebook sitting on, sitting on the desk.

And did you ever - were you ever given blank cheques by Mr Poller?---Yes.

And on how many occasions?---Oh, I can't, I couldn't recall.

20

Regularly?---No, not regularly, no.

So what are we, talking, once a week, once a month, once a year?---I can recall it happening, I can't, I can't recall when or I'd be saying I've got to go down and pay for something at a hardware store or give, I don't know which, where I'm going to buy it from now, give me a blank cheque but maybe once a year.

30

And when you - to take up the example that you've just given, when you were given a blank cheque was that for small amounts of money?---It could have been, it could have been large amounts.

When you were, when you were given a blank cheque did you always write them out to cash?---No.

You wrote them out to particular persons or companies, is that right or entities?---Correct.

40

And did you then advise Mr Poller, did you give him any information about who the cheque was written out to and for what job?---I think that, I think that was part of his - he had a tough time getting information out of me.

But did you do that?---Oh, I would have on times, yes.

And it's the case, isn't it, that in relation to - there was a signing system on the cheques, you needed two people to sign a cheque. Is that right?---That's correct.

And when Mr Poller was the finance manager there were only three people who could, who had the authority to sign cheques, that's yourself, Mr Roche and Mr Poller, is that right?---Oh, I'm not sure.

Are you sure you don't - you have no idea who had the authority to sign cheques?---Well, definitely Mr Poller - - -

Yes?--- - - - Mr Roche and myself.

- 10 Whether there was another person I'm, I'm not sure.

THE COMMISSIONER: Who could the other person be?---Oh, his assistant maybe if both Peter and I were away.

MR STRICKLAND: There was a person called Ms McClellan, she was also working there wasn't she at some stage?---(NO AUDIBLE REPLY)

Janet McClellan?---Janet, yes.

- 20 Did she work for Mr - did she work in the finance area as well?---Yes.

Now, Kings bid for government contracts didn't they from time to time?
Yes.

And some of those government contracts had consultants, didn't they, working for them?---Yes.

- 30 And what was your understanding of the role of a consultant in that situation?---Well, there'd probably be several different situations where a consultant's used.

Let's take the Art Gallery for example?---Yes.

What, what was your - and Mr Paul was the consultant in the Art Gallery?
---Yes.

And what was your understanding of his role?---He was the, the design consultant.

- 40 Yeah. But my question is what did you understand as the consultant for the Art Gallery tender what was his job?---To provide them with a solution fit for the Art Gallery.

A security solution?---Yes.

And to give you another example, you've heard of Mr La Greca?---Yes.

And he was a consultant too, wasn't he?---Yes.

For a company called IPP?---Yes.

And he was a consultant for the Department of Housing, is that right?---Yes.

And what did you understand his job as a consultant was for that project or projects?---The design consultant.

I beg your pardon?---The design consultant.

10

And so can you elaborate as to what you understand his job was?

---Designing security systems.

So when, when Kings was bidding for a government contract or when they had won the government contract did Kings ever pay a consultant in the sense that I've just -- we've just discussed?---No. Not that, not that I'm aware of.

20

If they had that's something you would think you would be aware of?---I would hope so.

Something you would have been -- you would have wanted to have been told about. Correct?---I would hope so, yes.

There'd be no reason in those circumstances for Kings to pay a consultant would there, in the circumstances I've just outlined here?---No.

Okay?---Sorry, can I just go back on that?

30

Yes?---What did you (not transcribable) about paying a consultant?

I'm saying you have said, and I've given you two examples with consultants?---Yes.

One was Mr Paul and was Mr La Greca?---Mmm.

40

And I asked you if you had ever or if Kings have ever paid to your knowledge any money to consultant and you said no. And then my next question was ---?---I'll take that back. On one occasion we were requested by Northern Area Health to pay for a brief from the consultant.

Say that again, please? To pay ---?---We, we were requested to pay for a brief or actually I can't even remember what it was, this is 2005, that they required him to do the brief and I have no idea why it was told that we should be paying the bill and whether we passed the bill on to Northern Area, I cannot recall, that was so long ago.

And you're referring there to a payment to Mr Paul as a consultant. Is that right?---That's correct.

Okay. And do you remember the sum of money?---I don't.

But apart from that occasion is there any other occasion when Kings paid for a consultant? Paid money to a consultant?---Not that I'm aware of.

10 Okay?---We pay consultants to do our drawings or drafting or technical consultants, but - - -

The questions I was referring to is when you were – when Kings was bidding for a government job - - -?---Okay, sorry, no. No.

Do you understand my questions?---Yeah, yeah, I understand.

So just to be 100 per cent clear, the one occasion you can recall when Kings was bidding for or had won a government job - - -?---Yes.

20 - - - when you paid for a consultant - - -?---Yes.

- - - paid money to a consultant was that occasion when you paid money to Kings?---Yes.

Paid money to Daniel Paul?---Yes.

And that's because you were asked to by what we refer to as the Area Health Service?---Yes.

30 Okay.

THE COMMISSIONER: In 2005?---Sometime between 2005 and, to be safe I'll say between 2003 and 2007.

MR STRICKLAND: Now there was also – when you were bidding for or had won government contracts there were also from time to time project managers that is permanent employees in a particular department or government agency who were employed to manage projects, for example 40 security projects. Correct?---Yes.

For example in the Area Health Service, Robert Huskic was one such employee wasn't he?---Yes. Well I don't actually – his exact role was.

Well he – you knew Robert Huskic?---Yes.

And who was he employed by?---Northern Area Health.

All right. And a Mr Cameron Creary?---Yes.

And who was he employed by?---Northern Area Health.

Now when you – and you worked for you entered into a contract with Northern Area Health, I'll just call the Area Health Service - - -?---Sure.

- - - just for the sake of simplicity?---Yes, yes.

10

You entered into contracts with Area Health Service and you were the preferred contractor, one of the preferred contractors for Area Health Service. Is that right?---Yes.

20

Now did you - did Kings to your knowledge ever pay any money to project managers such as Huskic or Creary when you, when you were doing or when you were bidding for Government contracts for Area Health?---I've never paid any money to Cameron Creary. Robert Huskic used to do work on my boat. Now whether there was a contract around at the time when he was working on my boat I'm not aware of.

Okay. And - - -

THE COMMISSIONER: What are you saying, I'm sorry I don't follow? Are you saying you paid Huskic for the boat or not?---No, no. Robert used to work on my boat.

Yes?---And when he was working on the boat or when I was paying, I'm not - I can't recall whether he was involved in a project at the time.

30

Okay. Did you say you paid, I didn't hear, did you say - did you mention something about paying Huskic?---Well, yes.

MR STRICKLAND: So you paid him money for doing work on your boat?---That's correct.

And, and when did he work on your boat?---Between 2000 - I'll guess.

No. Just if you can recall - - -?---I can't recall it.

40

What kind of work did he do on your boat?---Cleaning just a general, light maintenance.

I just missed cleaning and what, sorry?

THE COMMISSIONER: Light maintenance.

MR STRICKLAND: Light maintenance. Thank you. And how did you come to employ him doing cleaning and light maintenance on your boat?--- He was looking for some extra work. I think at first he asked if he could - if we had any work going at our factory which he didn't and, and I said to him I said oh, I always pay mates working on my boats and yeah, he said oh, if you got - if you ever need a hand let me know.

And so did you let him know?---Yeah.

- 10 And what, what did you say to him when you let him know?---I said to him come down and do some work, he said the (not transcribable) I'm doing at the moment is not around. Yeah, so come down and yeah, work on the boat.

And so when did he work on your boat? On Mondays to Fridays or weekends?---He had the key to the gate and he'd go down there after work and on the weekends, yeah.

And who gave him the key to the gates?---I did.

- 20 And did you tell him how much you were going to pay him?---Oh, I think we came up with some deal, yes.

And what was the some deal?---Whatever it was an hour, I can't recall now but it would have been probably \$30 an hour, 20, something like that.

And was there -did, did he advise you in writing - - -?---No.

I haven't finished the question. Did he advise you in writing about how much work he had done on the boat from time to time?---No, no.

- 30 And so how regularly did he pay?---Well I can recall paying him once when he did a couple of weeks on it and then I, I can't remember how I paid it. And then about a year later, I think it was about a year later he worked on it for a whole year and he said he was saving for a motorbike and when he, when he done, I think it was seven grand worth of work or something he gave me 3000 and I purchased a motorbike out of my personal account.

Are they the only two times you can remember paying him for work?--- Yeah, that, that's all I can recall, yes.

- 40 Okay. Now both of those occasions was he working full time?

THE COMMISSIONER: For whom?

MR STRICKLAND: For, for the AA - thank you, your Honour, Commissioner - - -?---I assume so.

Was he - well do you know whether he was employed permanently at the AHS at that time?---I assumed he was, yes.

Well did you know assisting from assumed - - -?---I just assumed he was. They seemed to take a lot of time off.

THE COMMISSIONER: I beg your pardon?---Well they seemed to - they seemed to be taking a lot of time off or they had lots of holidays or but whether he was full time or not I'm not - - -

10

MR STRICKLAND: You mean Mr Huskic took lots of time off from his AA - AHS job, is that what you mean by time off?---(not transcribable) he seemed to have free time, I don't - so I don't know whether he was full time.

THE COMMISSIONER: Mr Strickland, I'd be interested to know the size of the boat and what cleaning he did.

MR STRICKLAND: Yes.

20 I'll - can I just ask you this, when he was cleaning your boat - - -?---Yes.

- - - or maintaining it for a year - - -?---Yes.

- - - were you at that time - did you have at that time have any dealings with him - - -?---Probably.

- - - in his capacity as a employee of AHS?---Whether I did or someone from Kings did, yeah.

30 THE COMMISSIONER: You're nodding your head does that mean yes?--- Well I can't recall whether I did personally but someone - I assume someone at Kings did but, but for this - - -

And what year was this that he spent a year doing your boat, cleaning and maintaining your boat?---2007 or I'm, I'm guessing, 2006, seven or eight.

Well I think you said on this - was this the year when you purchased a scooter for him, is that right?---So it was a year prior to that.

40 So the, the 12 months before that?---Yes.

Okay. And there's no doubt is there in your mind that at that time he was working for AHS at the time he was doing cleaning and maintenance on your boat. Is that right?---Correct, yes.

Right. And how regularly, how often did he do maintenance and cleaning on your boat?---Every week he'd go down there.

How do you know he did it every week?---Oh, 'cause - I was going - I went down there every weekend and if it wasn't cleaned I know he hadn't been there.

So did you see him cleaning - - -?---Yes.

- - - and maintaining your boat?---Yes.

And you saw him often doing that?---Yes.

10 How often?---How often did, did I see him?

Yeah. Cleaning and maintaining your boat?---Every week.

Right.---No, sorry no, not every week, I assumed he was down every week 'cause it was cleaned and maintained. I, I'd go down there and he'd be down there on, on a weekend or after work, daylight saving.

20 So you didn't see him every week cleaning and maintaining your boat?---Not every week, no.

Well about how often then did you see him?---Probably every couple of weeks, it'd be two or three weeks maybe.

So you saw him on your boat - - -?---Mmm.

- - - maybe 20, 25 times a year. Is that right?---Well it was only one year. Probably, yeah.

30 So you developed a friendship with him?---Yeah.

THE COMMISSIONER: And did you often go to your boat yourself?---Yes.

How often?---Oh, every week, every - probably twice during the week and on the weekends, I was on it nearly every weekend.

MR STRICKLAND: And so what kind of boat is it - - -?---It's a - - -

40 - - - the boat that he was cleaning and maintaining?---A North Shore 38.

Right. And how, how big is that?---It's 38 foot but I think it's 39 (not transcribable) or something, 38 foot. Yeah.

And you said before Mr Huskic cleaned and maintained it - - -?---Mmm.

- - - and there was someone else who cleaned and maintained it. Is that right?---Mmm, mmm.

You have to answer verbally?---Yes.

And who was that?---Oh, I - a friend of mine Cameron.

Yeah. What's his full name?---Cameron McDonald.

THE COMMISSIONER: Cameron McDonald?---Ah hmm.

- 10 MR STRICKLAND: Is he - how do you know him?---My best mate from this high.

And so when he was cleaning and maintaining your boat was he also doing it every week?---Yeah, or I'd do it, yeah.

So sometimes he'd do it and sometimes you would do it?---Yeah, ah hmm.

- 20 But and in 2007/2008 when Mr Huskic did it did you all - was it the same thing that sometimes Mr Huskic would do it and sometimes you would do it?---Well I'd go down there and if someone just throw a hose over it or something but yeah, Robert would - he would spend a couple of hours at a time.

So in that year that Mr Huskic - - -?---Mmm.

- - - was cleaning and maintaining your boat what - how much did you pay him for that job?---Well from memory it was about \$7000 over the year.

- 30 THE COMMISSIONER: How long would he spend a day cleaning?--- Sometimes he'd be down there all day, sometimes it used to be two or three hours in the afternoon.

All day, what would you do all day in cleaning a 38 foot boat?---Well you can start somewhere and you pull cushions up and there's mould everywhere and then like - it's like the harbour bridge the boat.

If he'd do that every week how often would you need to spend a full day cleaning a boat which is regularly maintained?---Sorry, how, how often?

How long - how often - assuming your boat - - -?---Yes.

- 40 - - - is regularly clean, how often would the cleaner have to spend one day to do the cleaning?---Every second week. It depends on how much we're using it.

Every second week he'd have to spend a whole day in cleaning a 38 foot boat?---Well, it depends on how much we're using it, you know, whether we'd been out and all the sails were wet, and like he'd drag the sails out and

I still ask you how often would he need to spend a whole day cleaning the boat, taking into account that he came during the week, a number of days a week and every weekend to do the cleaning where I presume he did each time spend a whole day cleaning the boat but kept it generally tidy and clean, so how often under those circumstances would he spend a whole day cleaning the boat?---Once every couple, two or three weeks he'd probably spend a day down there.

- 10 MR STRICKLAND: When, when you were seeing him, I think you said 20 to 25 times a year, did you talk about the work Kings was doing for AHS? ---Well, not, probably, if there was something that needed to be talked about as far as if there's something going wrong.

All right. So you say if there was something - - -?---Yeah.

- - - you needed to talk about and there was something going wrong well, well, were there occasions when there was something you needed to talk about?---Yeah, I'd see him and he'd say oh, can you remind one of,
20 someone from work that he's, they've got to drop something off or, you know, that job wasn't finished, just general chitchat about projects that probably needed some attention.

So what exactly was Mr Huskic's job at AHS at that time? What did, what did he do exactly?---Oh, I thought he was a security guard.

- And why did you think that?---Well, I don't know, just at the time I thought that's, that, he was in the security department and he, well, not just a security guard but ran a security - well, ran the - looked after the security of
30 certain centres.

THE COMMISSIONER: He was a kind of manager?---I don't think he managed people.

Well, did he manage anything?---Well, I'm, I'm not sure.

- MR STRICKLAND: I've asked you about cash to Mr Huskic, what about gifts or other benefits to Mr Huskic. To, to your knowledge did Kings provide Mr Huskic with any gifts for other benefits?---Not to my
40 knowledge, maybe gave him a Christmas hamper. I, I couldn't - - -

I'm not asking you to guess, I'm just asking do you know whether that occurred, any gifts or benefits were given to Mr Huskic by Kings or by yourself?---Not, I think we might have put a front lock, put a door lock on for him or something. Other than that, no.

Are you guessing to that or do you know?---I think we did, yes.

All right. And why do you think you did?---I just - - -

What's the basis - - -?---In the back of my head I've just got something thinking there that he's wanted, wanted a lock on his front door.

Did you do that for free?---I don't, I don't, I can't recall, he may have paid me.

You don't know?---No.

10

Anything else apart from that?---Not, not that I can recall.

By the way, when you paid Mr Huskic, I think you said to the value of \$7,000 - - -?---Yes.

- - - did you, did you pay him in cash?---No.

How did you pay him?---I paid, I, he was wanting to - he was saving up to buy a motorbike - - -

20

Yeah?--- - - - and I said to him, when, when he got up he was telling me when the work had got up to around the \$7,000 mark he gave me, he gave me some cash and from memory it was \$3,000 and I said to him go get the, work out where it is and like I think I gave him my business card and I said just tell them to send me, send me the quote or send me the invoice and I'll, I'll pay it.

You said when the work got up to \$7,000 - - -?---Mmm.

30

- - - who told you that the work had got up to \$7,000?---Oh, I had a pretty fair idea that he was down there and the boat was getting cleaned and - - -

So who - - -?---He did.

Who arrived at the \$7,000 figure?---He did.

40

All right. And is it the case that he, after a year's work he said look, I've done about \$7,000 worth of work, is that what he said?---Oh, look, there was a, there was a, he, there was a pad on the boat at some stage and he was writing hours down there or there was some notes always on there 'cause he - - -

How, how many hours were there down there for that year?---Oh, I can't, I can't recall.

And you were paying him at 30 hours per hour or roughly?---Oh, I can't recall how much it was.

And is that pad still in existence?---No.

So can I just - so the \$7,000, that, was that - how did you, you didn't pay him in cash, was it - how did it actually get transferred?---From, from, from memory I paid from my personal account, from memory, I, I - - -

And you paid it?---I direct debited it into the scooter, the scooter shop.

Okay?---I'm pretty sure it was my, from my personal account but I'm not -
10 yeah.

Did it ever occur to you that there was any actual or potential conflict of interest in you providing - - -?---I actually - - -

I haven't finished the question, I'm sorry?---Sorry.

In providing approximately \$7,000 cash to a government employee to whom Kings was doing business?---Yes, it did and I think I asked him if he would, if he had asked his boss if he can do some part-time work.

20 Well, let's just do it a step at a time. So it did occur to you that there was a conflict of interest, is that right, actual or potential?---Potential.

And why? What was that potential conflict of interest in your mind at that time?---That we were working at Northern Area Health.

Yeah. And so why, why is that a conflict of interest?---Well, I asked him the question, I don't, I don't work for the government department. I asked him the question, I said should you be declaring this.

30 Right?--- Yeah.

And by this you meant what?---That he was doing some part-time work.

I see. And what did he say?---Oh, I can't recall what he said.

Well, you asked the question because you were concerned - - -?---Oh, he may have said I'll look into it or something I think.

40 Did he ever get back to you - - -?---Not that I - - -
- - - with, with an answer to that question?---No, he didn't.

Well, did it, did it concern you that you asked the question, I assumed you wanted to know the answer so you could satisfy yourself that there was no conflict of interest, is that right?---(NO AUDIBLE REPLY)

Is that right?---Well, I think the conflict's on his side, isn't it? It's, he's the one that needs to declare it, I can't ring up the government and declare it.

So apart from - did you ever raise it with anyone else at AHS that Mr Huskic was working on your boat and that you were paying him for it or that you had paid him for it?---No.

10 So when you paid Mr Huskic, that was from your personal account, is that right? It had nothing to do with Kings as a business?---I believe so but I think the invoice was made out to Kings because I gave him my card and said get them to send me the invoice.

You say the invoice, which invoice?---For the bike.

Let me ask you about Mr Creary. To your knowledge did you ever pay money or arrange for money to be paid to Mr Creary?---No.

Okay. To your knowledge did you ever provide any gifts or benefits or arrange for the provision of any gifts or benefits to Mr Creary?---No.

20 What about Mr Kuiper?---No.

You don't - have you heard of Mr Kuiper?---Yes.

And where did he work?---Northern Area Health. Oh, well, he may have been invited to a football match, I don't know whether he's ever been.

Well, when you say he may of, may have, was he?---He may of, he may of, we, we would often go to the football, we'd get tickets and invite clients.

30 And what was his role at AHS, Mr Kuiper?---He was similar to Robert, a security guard or - I think at Mona Vale Hospital.

Now, if I can just go back to the arrangements at - financial arrangements at Kings. Do you remember you attended fortnightly or monthly finance meetings?---I would get invited to them but whether I attended them was probably different.

Well, did you ever attend them?---Yes.

40 And when you attended those meetings who was there?---The accountant.

By the accountant you're talking about the financial manager?---Yes.

Is that right?---Yes.

Mr Poller or Mr Marinucci?---Yes.

Yes. And who else?---Peter Roche normally.

Thank you?---Myself, yes.

And did those – did you meet what fortnightly, monthly?---I think it was a monthly meeting. It really depends on the, the workload we had on or if we had any problems, sometimes they'd call extra meetings. But it would at least be a monthly.

- 10 Now at those meetings one of the things you talked about was the financial position of the company?---Yes.

You talked about where Kings work was coming from? How much work you had at any given time?---Not so much in the financial meeting, more so in the project meetings.

I'm just specifically asking you now about the finance meetings. If you were talking about the financial position - - -?---Yes, yes.

- 20 - - - of the company you'd be talking about what work was coming in and how much money it was generating. Is that correct?---Correct, yes.

Okay. Now did you ever discuss at one of those meetings that in order to stay in the game, Kings would have to follow what other companies were doing and give gifts or cash to key players to keep Kings visible?---I can't recall saying cash, I'd probably always say that we need money for a marketing budget to take them to the football and do entertaining.

- 30 Right. And which kind of people did you need money to take people to football and entertainment?---Clients, staff, suppliers, just create a network.

All right. And by entertainment, what do you mean by entertainment?
---The football.

Yes?---Take them out on my yacht, that's what I regularly did. The cricket, races, lunches.

- 40 And did Mr Poller or Mr Roche express any opinion to you about Kings spending money for those purposes?---Yeah, they always whinged and complained that I spent too much.

Did you tell them that you needed cash for that – for those purposes in order to keep Kings visible, to keep Kings in front mind of - - -?---Yes.

- - - government agencies and private contractors?---Well it wasn't, it wasn't necessarily government agencies, but I'd always say I wanted cash if I was going overseas or something, I'd say give me 10,000 or if I'm going to the races.

I'm just talking now about this – what you said these finance meeting or meetings - - -?---Mmm. Yep, yep.

And you said that Mr Roche, well Mr Roche and Mr Poller whinged about it. Is that right?---Well they always whinged at my practices.

Well I'm just talking about this particular practice. What did Mr Roche say about your – as I understand it you said at one or more of these meetings,
10 look I need to be able to take money and get cash from the company in order to pay people for entertainment and football and the like. Is that right?---I don't think I would have said people. I don't recall ever saying people. I would never - - -

Well what did you say?---Oh, I can't recall a time. Have you got, yeah, I just - - -

THE COMMISSIONER: I assume that you wouldn't just go there and say I want \$10,000 and not tell them what for or would you?---Yeah, sometimes I
20 would. Like most of the time I'd say - - -

They would be happy just to give you \$10,000 without knowing what it was for?---Most of the – a lot of the time it was for my boat or it was going overseas.

I'm not interested in what it was – with what it was for but are you saying that as a 50 per cent shareholder and director you could go there to these finance meetings and just ask for \$10,000 and the other persons at the meeting would be quite happy for you to take it without knowing what the
30 \$10,000 was?---No, they weren't happy about it.

But did they ask you who it was for?---Yeah at times, yes. Not every time.

Sometimes they didn't ask you did they?---Well if we had a lot of money in the bank I'd say give me 20 grand or give me, give me \$100,000 in dividends.

Sometimes they didn't ask you. Is that right?---Well I just said I want some cash, personally.

40 And they were happy to give it to you without asking you any questions about it?---Well if it's for dividends - - -

Did they simply give it to you without asking you any questions about what it was for?---They'd be asking questions, yes.

And was one of the questions they always asked, what was it for?---Usually, yes.

Sometimes did they not ask what it was for?---Well if I said give me 100,000 or \$10,000 dividends, that's what it's for, for dividends, so yes, yes, that's what - - -

You would either tell them what it was for or they would ask you?---Yes.

Every time?---I assume so, yes.

- 10 MR STRICKLAND: Putting aside the question of asking cash for your dividends, putting that to one side?---Mmm.

As I understood what you said before is that this finance meeting or finance meetings you raised with Mr Poller and Mr Roche the need for Kings from time to time to provide cash to take people out to football and entertainment. Is that correct?---Yes.

Right. And at those meetings did you ever ask for specific amounts of cash for those purposes?---No, not that I can recall.

- 20 And you're saying as I understood it that you said that's what Kings should do to keep, to keep Kings visible et cetera and that they whinged about that. Is that correct? That is Poller and Roche whinged about it?---Who told you about keeping Kings visible. I didn't say that.

Okay. Well, well why did you, why did you want Kings to pay money to entertain people and to take them to the football?---Well I didn't want to pay for it out of my own money.

- 30 All right. But why did you want to -- why didn't you want Kings to pay for people to take people out to the football and entertainment?---Why did I want to - - -

Do you understand the question?---Yes, I understand the question, to network.

THE COMMISSIONER: Why did you, why did you want to take -- to network?---To network.

- 40 MR STRICKLAND: Okay. And what - - -

THE COMMISSIONER: What does network mean? Just assume I'm old fashioned and I don't know what it means. Just describe networking to me, like getting money and paying them?---Getting, getting your -- I didn't say paying.

I'm sorry, taking money and paying for - - -?---And entertaining them.

- - - and entertaining them?---Yeah.

Is that what it means?---It's getting your name out there and you're networking within the industry. You're meeting other people within the industry that could benefit you in the long term.

MR STRICKLAND: So did you network with Daniel Paul?---Yes.

And network with Mr Huskic?---Yes.

10

With Mr Creary?---No.

You networked with employees from Q Video?---Yes.

And who were they?---At the time Tony Theissen, Rick Stokes.

Mr Thompson?---Mr Thompson.

20

Mr Morris from the Art Gallery, did you network with him?---I attended a conference which he attended.

Was that in Las Vegas?---Yes.

That's the International Security Conference?---That's correct.

Was that part of your networking?---Well it was an educational trip plus, yes, networking, yes.

30

All right. And so is networking who you wanted to – those people with whom you networked you would hope would assist Kings in obtaining contractors or maintaining contract is that part of the reason for networking?---Just to get your name out there. To keep your ear to the ground.

But can you answer what I've suggested to you that one of the reasons for networking is to assist – is to get those people that you networked to assist you getting contracts or to maintain contracts?---No. No, that's not correct, no.

40

Not that like that?---No. It may assist but I'm not – I don't go out there to say hey, I'll buy you a beer, make sure we get the contract.

Well what about \$7,000 and make sure you get me a contract? You said buy me a beer, a beer wouldn't get you a contract, but what about \$7,000?---I wouldn't do that.

You wouldn't do that?---No.

So that \$7,000 to Mr Huskic had nothing to do with Kings - - -?
---Absolutely not.

- - - getting a contract or maintaining a contract or getting on the good side of AHS?---No. It has to do with me having a nice clean boat.

THE COMMISSIONER: So you paid \$7,000 for a year's clean. Is that what you say?---Approximately, yes.

10 A 38-foot boat?---Yeah.

I'm sure most housewives would be very upset to know that a cleaner would charge as much as that, would you agree?---No.

To clean a 38-foot boat. What, what does that involve?---It cost me 30,000 a year - - -

Dusting it? What does the cleaning involve, that's what I'm really interested in?---Mould, lifting up floorboards, drying them out.

20 But you can do that once, you don't have to keep doing it every week, do you?---Yes.

Every week?---Well, I sail it every week, I race it every week and - - -

Once a week?---Yes.

So you use the boat once a week?---At least. Back then I was probably using it more than once a week.

30 How often?---Thursday night, I'd go out Fridays, yeah, probably three times a week in, in the middle of summer.

Were you working for Kings at the same time?---Me?

Yes, you?---Oh, I was - sorry, was it - - -

For your company, Kings?---Yeah.

40 So you were working full-time and going out in your boat three times a week?---Well, weekend and then Thursday afternoons we'd do, we'd always take clients out on Thursday afternoons.

MR STRICKLAND: At this finance meeting did you ever say to Mr Roche or to Mr Poller that you needed to provide cash to key players?---Not that I can recall, no, I wouldn't, I would have said I need cash for entertainment.

But what about cash to provide directly to these key players?---Not that I, no.

Who were the people - did you nominate at his, at the meetings who it was that you wanted Kings to spend money on, taking them to the football and for entertainment?---No, not at the finance meeting, no.

10 But leaving aside finance meeting now, putting that aside, did you ever talk to Mr Roche about the need for kings to pay for cash or taking people to the football and to entertain them?---Oh, I'd always be saying we need to, you know, we need some tickets for the football or we're going to the races and
- - -

And we've got to take these people with us?---We were inviting some people, we don't have to take them, I would have said we were going to invite half a dozen people and - - -

And pay for them?---Yeah.

20 And does that include lunches or dinners?---Yes.

Does it including paying for them to come to the, this international conference in Las Vegas?---No.

30 Does it include when, when you're at the international conference at Las Vegas does it, does it include shouting them to entertainment or accommodation at Las Vegas?---Oh, look, there'd be times where there might be a group of 10 or 15 of us around the bar having a drink and I'd put my card on the table or, you know, the bill will come forward and a few of us might just throw our cards on there.

THE COMMISSIONER: You never paid for travelling expenses for anyone to go to Las Vegas?---Did I ever pay, pay for travelling expenses?

That's what I said, that's what I asked?---What, our staff?

No, other people?---We've, we've invited some guests, I've invited friends and - - -

40 Have you paid for travelling expenses for other people to travel to Las Vegas?---Yes.

And have you paid for their accommodation there?---Yes.

And that was just networking was it?---Yes.

MR STRICKLAND: Whose travel expenses and accommodation have you paid for to go to Las Vegas?---Oh, our staff.

No, apart from your - I'm not asking about your staff?---Yeah.

I mean people outside - - -?---Suppliers.

Name, just name, name me the people you - - -?---There's some Honeywell people.

What are the names, what are the names?---Tim, Tim Maas.

10

Yeah. Who else did you, who else did Kings pay for the travel expenses or accommodation to Las Vegas?---There was a guy in Perth by the name - from Honeywell. I can't remember his name.

What about government employees?---No, none.

THE COMMISSIONER: Never?---Never.

Not one?---Not one.

20

MR STRICKLAND: What about consultants?---No.

Never?---Never.

THE COMMISSIONER: Not one?---Not one.

Are you telling the truth?---Yes. Sorry, I'll just go back. I am not aware, I haven't paid, maybe the company has but I'm not aware.

30

MR STRICKLAND: If, if the company had paid for a government employee to travel to Las Vegas or their accommodation in Las Vegas, you would have been told wouldn't you because you attended?---I would have hoped so.

Did it, wasn't it, it wasn't Mr Roche or Mr Poller who suggested that Kings pay money for the purposes of networking, was it?---No.

In fact they said, they were whining about that?---That's right, yeah.

40

So, that being so it's extremely unlikely that either Mr Poller or Mr Roche arranged for payment of a government employee to travel to or stay at Las Vegas without telling you wouldn't it?---It's unlikely it's not impossible, no.

Well, did Mr Roche ever say to you that he'd done that?---Not that I can recall no.

Mr Poller ever tell you that he'd done that?---No.

Was there anyone else in the company - - -?---Not that I can recall.

I haven't finished. Was there anyone else in the company who was authorised at the time Mr Poller was there, was there anyone else at the company who was authorised to pay for anyone to outside Kings to travel to Las Vegas paid for by Kings?---No.

10 So one of you three wasn't it who had the authority to do so?---Well, may be one of the sales guys might have asked, not that I can recall that they ever have.

Which one of the sales guys do you think had the authority to pay for that kind of money?---Probably no one had the authority, no.

So it's one of you three isn't it?---Yep.

20 And I want to suggest that the only person who's, who would have done that would be you, the only person who would have okayed or authorised a payment of anyone outside Kings to travel to Las Vegas at the Kings expense would be you. Do you agree with that?---No.

Who else, which of the other two would have done that?---The other two, anyone, they could do it without me knowing, so it's not impossible that's what I'm saying I'm saying it's unlikely but I'm not turning around and saying there's no way someone's gone to Vegas without me knowing, it could happen.

30 Did Mr Roche ever say to you anything along the lines that he felt a practice of Kings paying money for, to other people outside Kings was dirty?---I don't know, I can't ever recall him using those words but he used to get probably frustrated with me always wanting cash to pay for my boat to take clients out, I can't recall those words dirty, no.

Well forget that word, the substance, did he ever say to you anything along the lines that he felt that the practice was inappropriate or wrong or something along those lines?---Yeah, often.

40 What would he say?---More so about me taking cash I don't know if it was about who we were taking out it was about me taking the cash.

What did Mr Roche say about that, what, more or less, what did he say?
---What do you need the cash for, what do you need the cash for.

But did he ever say anything to you along the lines that he thought the practice of taking - - -?---No.

- - -out money cash and paying it to other people for networking was wrong or inappropriate?---I'm sure he would have, I can't recall the time but I'm sure he would.

Why are you sure he would have?---Because he was always hounding me about not taking cash.

I just want to show you some documents please. Commissioner, if you just excuse me for a moment.

10

THE COMMISSIONER: Certainly.

MR STRICKLAND: Just show Poller, 72 and 73 and I just want to I'm just going to show you, I'll have two pages put in front of you. Sorry, the first email I want to take you to, first, do you recognise that on the screen as an email, an internal email used at Kings?---Yes.

And the first email dated 13 February 2007 at 11.27am is an email from you to Mr Roche and the subject is cash.---Yep.

20

I need to get Dan 10k by Thursday morning.---Yep.

And then you can just read the chain of them to you.---Yeah.

Then a little less than a couple of hours later Mr Roche sends you an email, are there any others we need to combine? And then a few hours after that you write Telstra Bovis Burwood 4k. Do you know, who is the Dan that you refer to in that first email?---I can't recall.

30

THE COMMISSIONER: How many Dan's would you need to get \$10,000 cash for do you know?---Half a dozen.

Half a dozen Dan's?---Sorry, I know a half a dozen Dan's. I don't recall getting ten grand cash, maybe you should ask him whether I gave it to him did I, I don't recall it.

MR STRICKLAND: Ask who sorry?---Dan, if you're thinking it's him.

40

THE COMMISSIONER: Or which Dan should we ask?---Well, I assume you thinking its Dan Paul.

Is it?---No, I said I can't recall it.

Could it be?---I cannot recall.

Could it be?---If his name's Dan, yes.

MR STRICKLAND: Well, why did you need to get any Dan \$10,000 cash?

---I can't recall.

THE COMMISSIONER: It's quite an extraordinary thing isn't it?---Yeah.

Why don't you remember it?---It was 2007.

Oh so, paying someone \$10,000 cash in 2007 isn't something that you would remember necessarily?---No.

10 Is that because it happened so often?---No.

I beg your pardon?---No, no, I can't remember.

Why can't you remember it then if it's extraordinary?---My memory is not very good.

I see.

20 MR STRICKLAND: When Mr Roche sent an email, are there any others we need to combine.---Mmm.

What did you understand that to mean?---(not transcribable)

I beg your pardon?---Do I need any more, what other thing I need to do I suppose, are there any others we need to combine.

THE COMMISSIONER: To pay cash to?---You'd assume so, yes.

30 MR STRICKLAND: So you understood what that email meant at the time, didn't you, because you replied to it. Do you agree with that?---Yes.

And you reply was Telstra Bovis Burwood 4k. Was that \$4,000 for each of those three companies?---I can't recall.

Why did you need to pay \$4,000 cash to Telstra for example?---I could ask.

No, I'm asking you - - -?---I can't recall.

40 Well, at the time you must have known, mustn't you, because you replied? ---At the time, yeah.

All right. So can you assist us as to why do you think \$4,000 either - - -? ---No I can't.

You can't?---No.

What about, were you, were you, did you have a contract with Telstra at the time?---Not that I'm aware of.

So if you didn't, why would you be giving any cash to Telstra?---I just can't recall, I don't recall the email.

I'm just asking you now about transaction, rather than the email.---Yes.

What about Bovis, who was Bovis or what was Bovis a company?
---Builders, builders, yes.

10 Is that Bovis Lend Lease?---Yes.

Did you have a contract with them at the time?---May have.

So why would you need to provide cash to Bovis Lend Lease?---Do you want me to guess?

No, I want you to try and give an answer.---I can't recall but I assume that it would have been paying for the builders to do work out of hours.

20 THE COMMISSIONER: Why would you give Bovis Lend Lease a cheque for that?---Because we're paying a sub-contractor to do out of hours work.

Are you suggesting that Bovis Lend Lease would pay cash to its workers for work done out of hours. Is that what you mean?
---No.

Well can you explain please what you mean?---I assumed that I had paid cash to get - to sub contractors to do work out of hours on that job.

30 MR STRICKLAND: Why, why would - - -?---So 'cause I assume that's a job.

Why - if that was so why was that cash payment needed to be combined with the 10,000 cash to Dan?---No idea.
Because that's what that email asks you. In other words, in other words let's say your explanation is true that you - it was cash for Bovis Lend Lease for contracting services they provided Kings. That's what you're saying isn't it?

40 THE COMMISSIONER: Out of hours.

MR STRICKLAND: I beg your pardon?

THE COMMISSIONER: Out of hours.

MR STRICKLAND: Out of hours, yes.

If that was so why would you not need to combine that cash payment to - with the cash payment of \$10,000 to Dan?---No idea.

Well you knew - when you say no idea you must have had an idea with the time because you've answered the question in the email?---Yeah, well I would have had an idea at the time but I don't have an idea now.

One explanation isn't it is that if the cash is combined it would conceal the nature of the payment - - -?---Yeah.

10

- - - and the nature of who was being paid or the identity of who was being paid. That's an explanation isn't it?---There'd be hundreds of explanations.

Well name me any other?---Well - - -

Well you said there are hundreds, just give me one?---I wanted cash for boat, I wanted - - -

20

THE COMMISSIONER: What's this got to do with your boat?---The same thing, I need money for this job and I'd use it on my boat, put - - -

So you lie?---Hey?

You lie?---Lie to myself, yeah.

I beg your pardon?---Lie to myself.

So you're telling other people in your company to get money - you're telling them something to get money?---It, it may. Look I'm not, so, I'm, I'm - - -

30

And you're telling - just a moment, please. Excuse me I'm asking the questions at the moment. You have ample opportunity to reply. You've said if I understand you correctly that you very often say things to the people in your company who are in control of cash to get cash. Is that right?---Correct.

And some of the things you say are not true?---Correct.

And you know they're not true?---Correct.

40

But you still say them?---Correct.

To people in your company?---Correct.

So you're prepared to mislead and deceive your own partner? Are you taking some time to answer? I'm just noting that?---Well I never go out of my way to be unfair. Yes, mislead, yes but I don't think financially - - -

You are prepared to mislead your partner that is your answer?---Yes.

Are you prepared to mislead this Commission?---No.

MR STRICKLAND: Well on this occasion on the 13 February 2007 do you say that an explanation for your two emails that you need \$10,000 cash and that you need to combine that 10,000 with \$4000 cash with three other entities. One explanation for that was you were getting money for yourself for your own personal needs and that your answers in those emails was a lie
10 to Mr Roche?---Could have been, yeah.

So that is - that is a - - -?---That is a possibility.

That is - when you say it's possible that's something surely that you would recall that you have done. I mean - isn't that true? I mean if you have defrauded Mr Roche your partner of \$14,000 back in 2007 that's not something you'd forget is it?---Yeah.

You would - - -

20 THE COMMISSIONER: Is that because you did it so often?---I took money out of the company often, yes.

MR STRICKLAND: No. But I'm now - - -

THE COMMISSIONER: In that way, in that way?---Yes.

MR STRICKLAND: Well I'm now asking about defrauding the company because if the \$14,000 was not for the purposes you stated but was in fact
30 for your own personal purposes - - -?---(not transcribable)

- - - that's defrauding the company isn't it?---I said that's, that's another option.

I know, I understand that, but I understand you're not saying that's what happened, you're saying that is a possible explanation. Correct?---Mmm.

But what I'm asking you is if that were in fact a true explanation, that is something that you would remember isn't it?---Well I don't remember it, so
40 - - -

Well the only – how many – on how many occasions did you, not possibly, but did you tell Mr Roche you wanted cash for company purposes but in fact you were taking that cash for your personal purposes?---I can't recall that.

Well - - -

THE COMMISSIONER: Several?---I can't - - -

More than one?---I can't recall.

MR STRICKLAND: Well did you do it often?---I can't recall.

THE COMMISSIONER: I thought you said earlier that this is the sort of thing you often did, words to that effect?---Well I can't remember exact times and how much, I just - - -

10

MR STRICKLAND: Have you ever - you're still getting - you still have a relationship with Mr Roche don't you?---Yes.

And you're still being paid I think you said a quarter of a million dollars a year. Is that right?---Correct.

Have you ever said to Mr Roche, ever, look Peter I have defrauded this company - - -?---No.

20

So you've never told Peter Roche what you've told the Commission that you may have defrauded the company by taking cash out of the company for personal reasons when you advised Mr Roche it was for company or business reasons. Is that right?---I would take cash out of the company to pay for the expenses on my boat and in return I would use the boat for marketing. I would take clients out on the boat. Now the company wouldn't pay the expenses on the boat and I always felt, I had a niggling thing with him from day one, that the boat or the entertainment used on the boat should be paid by the company.

30

But see this, this \$14,000 are you saying that's \$14,000 for expenses - for entertainment expenses on the boat?---General, the boat costs about 30, I think over 30,000 a year to run.

Right. And so if this 14,000 was for the boat - - -?---Mmm.

- - - did it go on the boat?---I, I don't recall.

Well you see your answer there about, you thought you had a niggling view that the boat was something - that entertainment expenses on the boat

40

should be paid for by the company. That was your answer wasn't it?---Well and the expenses, what the boat cost me each year.

Okay. Well what were the expenses that the boat cost you each year? ---15,000 a year marina fees.

Yes. \$7,000 a year cleaning fees?---Yep.

Every year?---Yep.

Every year you spent \$7,000 to clean - - -?---I suppose I spent 30,000 a year on maintenance.

Just bear with me?---Yes.

I have to finish my question. So is it the case that you spend \$7,000 every year cleaning and maintaining a \$30,000 boat?---It's not a \$30,000 boat.

10 I'm sorry I – how much is the boat worth?---Oh when I bought it I think I paid 200,000 for it.

Okay. I beg your pardon. So – but what I'm asking you is this, you said that – and I'm just focusing on this email?---Yes.

You said a possible explanation for it - - -?---Was that in fact you had – you were deceiving Mr Roche and the \$14,000 was not for Dan or Telstra or Bovis but it was for your own personal expense. That's what you said?
---Yes.

20 But I take it you said it's a possible explanation because that's something that did in fact happen from time to time?---Yes.

My question is as – by it happening from time to time you mean deceiving Mr Roche about getting cash for personal reasons when you've advised him it was for business reasons. That's what happened from time to time. Is that right?---Can you say that again, please?

You say it happened several times. Correct?---What's it?

30 Well I asked you, I'll back on the questions I asked you. The questions I asked you were that from time to time you told Mr Roche that you wanted cash. You advised him it was for company or business purposes, but in fact it was for your own personal expenses. Do you agree that happened? I said, how often did you do that? And you said several times. Are you with me?
---No, I'm not. I'm in another world at the moment, sorry.

THE COMMISSIONER: I beg your pardon?---I'm drifting off. Can you start again.

40 MR STRICKLAND: You have said to this Commission that from time to time you advised - you asked Mr Roche for cash which you said was for company or business purposes but was in fact for your personal expenses and that you deceived him in that regard. Is that correct?---Not personal, they were for my boat expenses which the company used.

So that scenario I've asked you about was simply for your boat, is that right?---In most cases, yes.

And in other cases for what?---Going on, going to the races, going overseas.

And so you - and they were misrepresentations or deceptive - you deceived Mr Roche for the purposes you got cash for, is that right?---You, you could, you could - I suppose you could think that, yes.

But when you say you suppose you could think it I mean, if you've asked - - ?---Well, in my own mind I, I don't think I have ever taken money that's not deserved and he knows damn well that I always say I want the boat paid by the business.

Have you ever said to Mr Roche ever look, I have on occasions told you that I wanted cash for business purposes but in fact I lied to you and I took it for my own personal expenses?---No, I haven't, no.

THE COMMISSIONER: I just want to - sorry, Mr Strickland, have you finished your questions about - - -

20 MR STRICKLAND: Yes, thank you, yes.

THE COMMISSIONER: - - - these emails because there's a couple that I would like task Mr Diekman.

Mr Diekman, if you look at the email which says, "I need to get Dan the 10,000 cash by Thursday morning" - - -?---Mmm.

- - - that, do you agree with me that that suggests that Dan knew - sorry, that the person to whom you sent this email would know about the \$10,000 before he got the email?---I can't, I can't recall.

Well, look at the words of it?--I, I, I just recall the time, it's 2007.

So what I really am curious - - -?---So I'm only guessing.

- - - about is what could it possibly be that you would have spoken to Mr Roche or Mr Poller about \$10,000 to be paid to Mr Paul or another Dan? Why would they want cash?---I can't - - -

40 Did they ever - did any of them ever want cash?---Who?

One of the Dan's you know?---Oh, every Dan would want cash. But look I don't recall that situation.

Every Dan would want cash?---Well who doesn't want cash?

I beg your pardon?---Who doesn't want cash?

So why did you need to get Dan the cash?---I don't recall it. I don't - - -

Well I'm trying to think of a – what reason assuming this was Mr Paul - - -
---Mmm.

Let's first start before we get there, what other Dan could this possibly be
other than Mr Paul? Can you tell us that?---Dan that runs a security factory.

Dan who?---Dan Roche.

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Dan Roche?---Yes.

Is he a relation of Mr Roche?---Yes, yeah.

So would you pay him cash?---Well we used to do a lot of things down at
the factory but - - -

Did you ever pay him cash- - -?---- not that I can recall. Not that I can
recall.

20

Any other Dan?---Not, not that I can recall.

So on what possible basis – for what possible reason would you want to get
Mr Daniel Paul \$10,000 in cash?---I don't know.

Can you think of a reason?---No, I can't.

Because there could be no legitimate reason could there be?---I just can't
recall it.

30

Can you think of a legitimate reason for which you would want to pay Mr
Paul \$10,000 in cash in 2007?---Not in 2007, no.

Yes, thank you. A convenient time to adjourn?

MR STRICKLAND: Yes, it is thanks.

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

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LUNCHEON ADJOURNMENT

[12.59pm]