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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 2.10PM

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THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Mr Diekman, I just want to ask you some questions about your role at Kings when Kings tenders for contracts. One of your skills was that you knew in relation to a particular government contract which person employed in government had influence or had input into the tender process. Do you agree with that?---Sorry, can you just ask the question again.

Okay. When Kings was tendering - - -?---Yes.

- - - for a government contract your, you made it your business to know who were the key players within government who were responsible for the tender on that contract?---Yes, yes.

And indeed, that was one of the points of networking, you only networked the people who may be of some use for Kings, correct?---Not, not the only people, like network suppliers and network staff and - - -

But in terms of networking clients - - -?---Yes.

- - - you networked the people who mattered within the client organisation, correct?---And others.

Well, do you agree with me that you, you attempted to and did network with the people that mattered within the relevant government agency or organisation?---I attempt to as a job as a salesman try and find out who knows what.

Who knows what and who does what, correct?---(No Audible Reply)

Do you agree with that?---I try and gather as much information as I can to put forward to our tender team.

And part of your information gathering exercise was to work out which people in a particular agency to whom Kings was bidding would have influence over the tender process?---I wouldn't say who has influence over the tender process, no.

What would you say?---I would try and get as much information out of any tender to try and make sure we've - we know, we know what's going on with the job and what they're trying to achieve.

But, but do you - you don't suggest that you didn't try to know which people in a government agency had a power to influence the tender process

by making recommendations to a tender evaluation committee or to approve a particular bid or quote?---Sorry, ask, ask that again.

THE COMMISSIONER: You were asked whether - you're being asked about - asked whether you I think firstly try and find out which people in an agency are responsible for the awarding of a particular tender and then having found out you try to get to know them?---You could call it that, yes.

10 MR STRICKLAND: Well, is that what you call it?---Well, I try and find out as much information as I can without stepping over the line.

Part of the information you wanted to find out was who had influence in a particular government agency in relation to entering into contracts or approving contracts. Do you agree with that?---No.

You don't agree with that?---Well - - -

20 It doesn't interest you to know - - -?---Part of if it, yes, it interests me, but I don't go looking for it.

You don't?---No. Well I go looking for information about, about a project and what they're trying to achieve.

THE COMMISSIONER: This is part of the information – is it correct to say that this is part of the information you look for?---It's correct to say that, yes.

30 MR STRICKLAND: I just want to get back to Mr Huskic. We were asking some questions about you – why did you offer Mr Huskic to clean and maintain your boat? Why him as distinct to someone else?---Well he, he – from memory, it was a long time, he was looking for some part time work and - - -

How, how did you know that?---I think he asked me.

And in what context did he ask you? Did you know him socially or personally before the AHS jobs?---No, I didn't know him, didn't know him at all.

40 So you only met him through business. Correct?---Correct.

And so you were talking to him one day. Is that right?---Yes.

In his capacity as an employee for AHS?---Oh, it may have been at, it may have been at an industry function and it may have been – I can't remember.

Okay. Anyway you get talking and he – and how does it come up – how does it come out that he comes to clean and maintain your boat?---He was

asking around anyone that – he wanted some part time work. He was looking for part time work.

And then what? He asked you, he asked you do you know if I can get some part time work and what did you say?---I'm only guessing - - -

What I want to know is how did it come about that he came to clean and maintain your boat?---He was asking for some part time work - - -

10 Yes?--- - - - and I probably said well, you know, I can give you some part time work on my boat.

Right. And that obviously wasn't the first time you'd met him when – or was it the first time you met him?---No, not the first time, no.

All right. You obviously came to trust him didn't you because you gave him a key. Is that right?---Oh, it was just a key to the gate that gets him on to the marina, yes.

20 But I take it you trusted him?---Yes.

And you trusted him enough to advise you how much work he was doing so you could later pay him?---Yes. Yes.

And you I take it knew what he did at AHS, that's Mr Huskic?---Yes.

And for example you knew in relation to the master key agreement in 2006 that he was the project manager in relation to that particular contract wasn't he or that part of AHS?---No, I don't think he had anything to do with the lock contract when we were first awarded it and never really went ahead. It was supposed to be a couple of million dollar job and it didn't happen.

What was meant to be a couple of million dollar job?---To rekey the six hospitals. It was supposed to happen all at once and we were able to achieve some project pricing with Abloy as it was a three way agreement and yeah, it just didn't go ahead. Alls they did was said, oh go and put a couple of locks on there and a couple of locks there, which wasn't part of the original tender.

40 Okay?---Which made it very difficult and I think Abloy ended up pulling out of the project pricing and, yeah, we were losing money on it because it wasn't the project as it was supposed to be.

Well let me ask you – let me put this to you and I want you to assume this is correct, but if you say it's not correct tell me. In 2006 Kings received about \$68,000 from AHS. Is that - - -?---I wouldn't know.

You wouldn't know?---I wouldn't know.

In 2007 they received \$1.2 million from AHS. Do you accept that as being roughly right or you don't know?---I'm not denying it but, yeah, I don't know.

Okay. Well what work did Kings do to, to receive about \$1.2 million from AHS? What kind of work did they do for AHS?---Access control work.

10 Right?---Not the lock contract, I think that would have been minimal.

So access control work?---Yes.

Which means?---Your card that swipes on the door reader and opens the door. And the CCTV system.

Right. And was that for what, particular hospitals or across the board of AHS?---Across the board.

20 Across the board of the North Shore Health Area District?---Mmm.

Is that right?---Yes.

All, all hospitals and community health centres. Is that right? Well almost all?---I believe so.

Okay.---Yeah.

30 Now did you - was that a single contract you entered?---There was no contract.

Okay. So how was it that you came to do that very large job for AHS? Did you bid for that job?---Which large job?

Well you just described a large job of, of providing access control work? ---Yes.

That's the, that's the large job I'm talking about?---Right. Well, that, that can vary from a \$2000 job to a \$20,000 so - - -

40 What I'm - okay, let me - just listen. I'm telling you according the records your firm made \$1.2 million a bit more in 2007 and I've asked - my question was what work did you do to generate that kind of income and you've answered it, you said the access - - -?---Sorry, sorry. We made \$1.2 million?

THE COMMISSIONER: Sorry, I think - Mr Strickland, is that \$1.2 million profit?

MR STRICKLAND: No, no, that's turn over, turn over.

THE COMMISSIONER: Right. Is it from, from AHS?

MR STRICKLAND: From AHS in 2007?---Yes.

So what I - and I've asked you what did you do for that work and you said access control work?---Yes.

10 Now anything - - -?---And CC - - -

- - - else in that, in that year?---CCTV, maybe security doors.

Okay. Well how did you - did you enter into an agreement?---There were no agreements.

There were no agreements?---No. Well, sorry to my knowledge there were no agreements, no.

20 Well there must have at least been an old agreement, there may not have been a written one but do you, do you know if there was an oral agreement by which you - Kings provided that kind of significant work to AHS in that year?---Well that seemed to say request for a quote and we'd quote the job.

Okay, all right. And when you say they would send us a quote whose they? ---It would either be Robert Cameron, Eric Kuiper or it could even come from a builder or electrical contractor.

30 All right. So Robert - you just mentioned those names?---Yeah.

Robert Huskic, correct?---Yes.

Cameron Creary - - -?---Yes.

- - - and Eric Kuiper?---Yes.

And, and you, and you've mentioned someone else?---Oh, it might've come, come from an electrical contractor or a, or a builder.

40 THE COMMISSIONER: You would sub contract?---Yeah.

MR STRICKLAND: So they would send you a - what was the document they sent you?---It might just be an email or a phone call saying can you meet on site we want to quote for this job.

So they want you to quote for that, for that job?---Yes.

And do you know if any other company quoted for that, that job or was it just you?---I know a number of times Sielox quoted jobs.

THE COMMISSIONER: I beg your pardon?---Sielox. Another company were quoting jobs.

MR STRICKLAND: Any other company?---Not that I'm aware of.

10 And did you know that you and Sielox were the two preferred contractors for the AHS?---I think - I don't know whether that was official or anything but I think it was just the two of us quoting.

So you met - so just as I understand the system - - -?---Mmm.

- - - so Robert Huskic or Cameron Creary or Eric Kuiper would ring you up - - -?---Mmm.

- - - or email you - - -?---Mmm.

20 - - - and say "I want you to come and quote a job." Is that right?---Yes. Or they send us documents, send us plans.

Okay. And then in response to that email or telephone call did you - you said you then met them on site. Is that right?---Not on all of - - -

Sometimes, sometimes - - -?---Not on all occasions, no, no.

Okay. Like sometimes you'd met them on site. Is that right?---Yes.

30 Right. And by them I mean Kuiper or Huskic or Creary?---Yes.

Correct?---Yes.

And then - - -

THE COMMISSIONER: Sometimes you quoted from the plans which they sent?---Yes, yeah. So if the building wasn't built yet there was no point going to site.

40 MR STRICKLAND: Okay. And what kind of quotes are we talking about, what's the range of size of those, of those quotes?---Oh - - -

From 2007 on?---Anywhere from \$100 to a couple of hundred thousand.

And in terms of the bigger quotes was there a tender process for those jobs? ---We were asked to quote the job and we were giving them information. I don't know whether you'd call it a tender process.

In those bigger jobs, and I'll refer to them as anything over say \$30,000 - - -
?---Mmm, mmm.

- - - do you know, do you know if there were any other quotes that were
given in relation to that, to those jobs?---No, I don't.

You don't?---Sorry, any other quotes from - - -

10 Any other, any other - - -?---Well, I guess Sielox used to quote a lot of jobs,
well, yes.

So for those - and did Sielox, when Sielox used to quote was that for the
larger jobs was it?---Oh, I'm not sure.

You're not sure. But how do you know - how did you know that Sielox
quoted for particular jobs?---Sometimes we'd see them on site.

20 And was there any other way in which you knew that Sielox quoted?
---Probably through Honeywell, the manufacturer of the type of system they
used.

Who did you know at Honeywell?---Tim Maas.

How do you spell the surname, please?---M-a-a-s.

Right. What, and what would he, what would Tim Maas tell you?---Oh, he
might ring us and say oh, are you quoting that job at Northern Area Health.

30 THE COMMISSIONER: Why would he want to know that?---Because
someone's asked for pricing on that from him and for the larger ones it'd be
project pricing.

But why would he phone you?---Oh, well, I'd be - I used to talk to him on a
daily basis, we use a lot of his product and - - -

I see. He, he was a supplier to integrators?---Yeah, yeah.

40 MR STRICKLAND: And did you use Honeywell as your supplier for the
AHS jobs?---You have to, you had no choice.

Okay. So the answer's yes?---Yes.

And what about for any other jobs?---Yes.

What, what other jobs, what other government jobs do you use Honeywell
for?---I'm not aware of any other government jobs, there may be some but
not, not off the top of my head.

So you obviously appreciated, didn't you, that there was a particular time when your work with AHS exploded, expanded significantly, correct?
---Yes.

And, and why do you think that happened?---Well, we weren't doing any access control work there.

10 I beg your pardon?---We weren't doing any access control there and then we got the agency from Honeywell to be able to support the, what they call the Pro-Watch system there, that we were able to price against Sielox. Prior to that Sielox was winning it all sole-select.

I missed that, sorry?---Prior to Kings being awarded a dealership of the Honeywell product my understanding was Sielox were sole select getting 100 per cent of the work so when we came in it gave Sielox competition. So the reason why it would go from that from nothing is because we weren't doing any.

20 So how did you come - how was it that Kings got their foot in the door in AHS?---They were - we were trying to get the lock contract completed or, you know, we were there trying to see if they could push it along because it looked like they weren't going to go ahead with it, it was just going to be rolled out over a long period and on a number of occasions the, this was before I knew Robert, they kept saying can you price, can you give us a price on this access control and we just said we can't do it until we get Honeywell.

30 Right. And that's what Robert was saying to you, can you get a price on access control?---Not Robert, no, these were the people before him.

But you remember doing a job installing security systems at Wyong Hospital?---Vaguely.

And do you remember how that, how much that was worth?---Oh, no, it would have been two, 200 grand, maybe 300,000.

Excuse me.

40 THE WITNESS: Sir, could I just go to the bathroom while - - -

THE COMMISSIONER: Certainly. Mr Strickland, I think that we will adjourn until Mr Diekman comes back.

SHORT ADJOURNMENT

[2.31pm]

MR STRICKLAND: Could the witness please be shown AHS 114. Sorry and the covering email 113. Now you gave some evidence about receiving -
- -

THE COMMISSIONER: I don't think he's seen it yet.

MR STRICKLAND: I'm sorry, Commissioner. You gave some evidence about Kings receiving quotes or providing quotes for particular jobs. If I could just show you one. The covering email is from Peter Roche to Robert Huskic with you copied in on 22 June, 2007, saying as requested please find invoice attached. Do you see that?---Yes.

And then attached to that at page 114 is the invoice - - -?---Yes.

- - - for a supply and install Pro-Watch access control system at Wyong Hospital?---Yes.

And I take it that's just one of the quotes you - I'm just giving you an example of something, I take it that's just one of the quotes you provided for that particular job. Is that right or you don't know?---No, it's an invoice.

That is the invoice?---It's the invoice not the quote, yeah.

I thought, okay - so that job was - the quote for that particular job was \$169,400. Correct, as per the quote?---Yes, yes.

Okay. So then what you didn't submit another invoice for that job?---I don't know.

30 You don't know. But you can see there it's got your order reference is Cameron Cleary but that should be Creary. I that correct?---Yes.

And the order reference is that the, is that the person who referred the particular job to Kings within AHS?---I couldn't be sure on that but it was probably our contact up there.

Okay. And to your knowledge the invoice was sent to Robert Huskic because it was his - he was going to arrange for the payment of it. Is that right?---He organised the accounts I believe, yeah.

40 Okay. And this tax invoice is what you were describing before, you on a particular job you send an invoice, in this case one for \$169,000, you send it to a particular person and each particular invoice had a particular person - an order reference identity. Is that right?---Well it was actually a bit of a debacle because we were always trying to get order numbers and, yeah, often we didn't get them but we got a letter of confirmation. You have to speak up so everyone can hear you, sorry?---Often we didn't get order numbers or it was a bit of a debacle, we were prone to pressure to

get on to the site because the builders may be there or something. It may have just been an email to us saying, you know, we confirm your quotation can you please proceed and an order will be forthcoming. Many a time the orders were never forthcoming and which caused a lot of angst with our accounts department when they were trying to chase money.

I see. Okay. In 2007 your contact people at AHS in relation to these contracts, and this is but one example - - -?---Mmm.

10 - - - was apart from Creary, Huskic and Kuiper or Kuiper was there anyone else you can recall?---There might – at times there might have been a departmental contact.

Okay. Were they the main three?---Yes.

Okay. And were they also the main three in 2008?---Yes.

And for the following couple of years. Is that correct?---Yes.

20 Okay. Now if I could show you another document. Commissioner at the end of today or at the end of this witnesses evidence I'll tender these documents as a single bundle. Now the next thing I want to show you is AHS page 370. Now I'm just showing this document to see if your memory can be refreshed. But this document indicates – is a call charge record that one obtains from the relevant phone company, in particular the mobile phone used by Mr Huskic. And I'm just isolating two entries, it shows that he made a call on his mobile to your mobile or do you recognise that number, ? That was your mobile?---Yes. Yes.

30 And that shows that on the 31 May at 4.19pm he telephoned you that afternoon and on a following afternoon on 1 June he telephoned you. So I just want to show you that. And the next thing I wanted to show you was two AHS, sorry, excuse me. I beg your pardon. Financials 226 and 296.

MR NAYLOR: Excuse me, Commissioner, just while that's being done, can I make a non publication order application in relation to the phone number for this witness?

40 THE COMMISSIONER: Yes. The - there'll be suppression order on phone numbers reflected in the document which - on which Mr Strickland is examining at the moment which its document - - -

MR STRICKLAND: And also, sorry - - -

THE COMMISSIONER: - - - financial - it's been described as financials to be 7-0.

MR STRICKLAND: Sorry. So also financial 225 as well, please.

THE COMMISSIONER: And financial 225. The suppression order relates solely to telephone numbers that appear thereon.

MR NAYLOR: Yes, thank you, Commissioner.

MR STRICKLAND: Let me just show you three documents. If I could just look at the - the first one is, is number - got number 225 which is a withdrawal slip from the National Australia Bank. You banked at the
10 National Australia Bank. Is that correct?---The company does, yes.

And is that your signature?---Yes.

And it's dated 1 July 2007. If you then go to the next document. I'm sorry. And you see there it's got north, North Sydney to, to the - - -

THE COMMISSIONER: The branch.

MR STRICKLAND: 225 next to your signature. On the stamp it's got
20 National Australia Bank Limited North Sydney. Do you see that?---Yes.

Was that your local branch?---No.

THE COMMISSIONER: When you say your you mean - - -?---I'd go there often I was just - - -

You'd go there often?---Yeah.

Okay.

30 THE COMMISSIONER: That's Kings local branch is it?

MR STRICKLAND: And is that - - -

THE COMMISSIONER: Is that Kings local branch?---No.

Yours?---No, no, it was just on my way home, it's North Sydney.

40 I'm just trying to find out if it's Kings or your own. Mr Strickland, can you throw - - -

MR STRICKLAND: Is that Kings - I don't know, Commissioner.

Do, do you know if that's your local branch or - - -?---No, it's not, no.

THE COMMISSIONER: You don't have - I understood you say you don't have a bank account?---Yeah, I have a bank account.

So is this - is this - can you look at the copy of the, the type of withdraw document on the top of 225. Is - does that come from your bank or Kings bank?---I don't, don't know.

You don't know?---I don't know my account number, no.

MR STRICKLAND: Now if you just go to - is that, is that your writing on it, your, your date and your - - -?---Yes.

10 And the number 10 - - -

THE COMMISSIONER: The date on it, that's 225.

MR STRICKLAND: 225 and can I suggest that that is in fact your personal bank account?---You can suggest it, I don't know whether it is.

20 Just go to the next document 226, that's a cash amount of \$10,000 which is a withdrawal from your bank account, you see the numbers there or , -, -, -, -, -, -. Do you see that at the bottom?---Sorry, sorry, what am I looking at?

THE COMMISSIONER: Well, it's not, it's - if you go to the last line, it's in the middle of the page, do you see the last line of the typing and in the middle of it there is - -?---Yes.

- - there is , -, -, -, -, -, -, -?---Yes.

30 MR STRICKLAND: And then to the left is the BSB number , -, -, -,?---Correct, yes.

And that's dated 1 June, 2007 for the same amount of money?---Mmm.

Can I, can I suggest - - -

THE COMMISSIONER: So what is the document?

MR STRICKLAND: That's a, that is a bank record.

40 THE COMMISSIONER: Of a withdrawal?

MR STRICKLAND: Of a withdrawal, exactly.

Do you know if this - if the 10,000 you've withdrawn which you signed on 225 is the same withdrawal on 1 June, in other words, is it possible you made a mistake when you, when you've written the date 1 July, 2007 and it should be 1 June, 2007?---You've totally lost me.

Well, I'll just – I'll start again. You've got, you've, you've signed a withdrawal slip on 1 July, 2007 for \$10,000 from your personal bank account. That's what 225 shows?---Yes.

Do you see that?---Yes.

226 is the bank record which shows a withdrawal from your personal bank account for \$10,000 on 1 June, 2007 not 1 July, 2007, do you see that? You see the date on the bank record? It's got branch online business system?---
10 What?

Now this is the, this is the, this is 226?---Yes.

Okay. Branch online business system 1 June, 2007, do you see that?---Yes.

So what I'm suggesting is is it the case that the \$10,000 that you've signed, that is the withdrawal for \$10,000 that is dated 1 July, 2007 is in fact the same withdrawal shown in the bank records as happening on 1 June, 2007?
---You'd hope not, wouldn't you?
20

Well, what I'm asking, do you – would you have drawn two lots of \$10,000?---Yeah, I could have, yeah.

Could have?---Yeah.

Okay. In any event, just go the next page, 296 and that is a bank record of Robert Huskic which shows on 1 June, 2007 there's been a nine and a half thousand dollar credit to his account on 1 June, 2007, do you see that?
---Yeah.
30

Do you recall transferring 10,000 or nine and a half thousand dollars to Robert Huskic on 1 June, 2007 or 1 July, 2007?---No, I don't.

Do you, do you recall sending that amount of money to Robert Huskic?
---No.

You said earlier today that there was a payment of, I think you made a payment of \$7,000 in relation to the cleaning he's done on your boat and the maintenance he's done on your boat, correct?---Yeah.
40

And that was for him to buy a Vespa scooter or a scooter, is that right?
---That's correct, yes.

And I think you said – and you'll correct me if I'm wrong or I'll ask you, I forget what you said, how did you actually pay that money? Was it, did you give, did you give him the cash or was it through a bank transfer, was it by cheque?---For the bike?

Yes?---From, from memory I paid it, paid the scooter place.

You paid the scooter place - - -?---Yes.

- - - direct?---From, from memory.

Okay. And was it a Vespa scooter?---Yes.

10 So you paid the, you paid the – however manufactured that scooter, whoever supplied that scooter you paid them direct?---Yes.

That's your memory, best memory?---That's my best memory, yeah.

You didn't pay it to Robert Huskic?---No, no.

Okay?---No, to the best of my memory, you know, I just - - -

20 So I guess what I'm asking you is this, forget, forget this document, the 1 July, 2007 document - - -?---Mmm.

- - - is a bank record that shows that from your personal account there was, there was a withdrawal of \$10,000 on 1 June, 2007?---Yes.

And on that same day there was a nine and a half thousand dollar deposit into Robert Huskic's account?---Right.

That's what the bank records show. Do you say that you had no role in depositing - - -?---Well I didn't deposit, I didn't - - -

30 - - - a large amount of money, that is nine and a half thousand dollars or \$10,000 into Huskic's bank account or bank accounts?---Wouldn't it show that I transferred it?

I'm just asking, do you have a – forget what it says, do you have a recollection - - -?---No, I don't.

40 - - - of transferring any money or asking for the transfer of any money into Robert Huskic's bank account?---I can recall at some stage before we started starting he said he wanted to do the Vespa, he did some work for them, like I can't remember whether it was \$100 worth or 500, I just, I can't remember and it was - - -

THE COMMISSIONER: We're talking about \$9,500 Mr - - -?---Not that, no, no.

MR STRICKLAND: Well you see you've told us – you said to us before lunch that there were two occasions when you paid some money?---Yeah, yeah.

The first one was when I think he did a few weeks worth?---Yeah, it wasn't, yeah - - -

So a few weeks – how much did you pay him for the few weeks worth?
---It'd be a couple of grand I suppose, \$1,000, \$2,000.

THE COMMISSIONER: Is this on top of the \$7,000?---Oh, it was well before. I think it was a year prior.

10

MR STRICKLAND: Okay. So when you paid him the one or \$2,000 was that in cash?---I can't remember.

Well how did you pay him?---I just can't remember.

But you definitely paid him?---I can't even remember if I actually paid him. I just, I remember he was doing work 'cause I spent some time down there with him and - - -

20

Well that was – and that was a year before the \$7,000 work. Is that correct?---I think so.

Well that's what you said before isn't it?---Well I think, yeah, I think it was.

Okay.

MR NAYLOR: Might there be a non-publication order in relation to the bank account number.

30

THE COMMISSIONER: Yes. There's a non-publication order on Mr Diekman's bank account number.

#NON-PUBLICATION ORDER ON MR DIEKMAN'S BANK ACCOUNT NUMBER.

MR NAYLOR: If the Commissioner pleases.

40

MR STRICKLAND: Can I just ask you about Cameron Creary? Did you socialise with him outside of work?---Not, I used to talk to him a lot on the phone, but not, no.

Okay. And when you talked to him on the phone that was about work was it?---Yep.

Now if I could just show you please, some documents, financials 255, 236, 248 and 238. I'll just take you first to – I'm sorry, if I can just take you first

to 255. Now is that – do you recognise that as a copy of a bank account with yourself and a Ms Newman?---Yes.

And an address in , . Is that correct?---I wasn't living in , , I in 2007.

All right. Well the address on that bank account is , , , , , . Is that - do you recognise that address?---Yes.

10 And what was that address?---That's my home address.

That's your home address, right. And Ms Newman is your?---My wife.

Thank you. And if I just look at - excuse me just for one moment. And you see that BSB number, an account number is the same account number as the previous - - -?---Yes.

- - - cheque that I've shown you. Is that right?---I haven't got it here but - - -

20

That's, that's the one 225?---I'll, I'll take your word for it.

Okay. That withdrawal slip. Now if you just go to the entry 29 June 2007 on page 255 you'll see at the bottom of that page which is statement number 100 you'll see internet transfer TV 5000. Do you see that?---Mmm.

Just, just, just look first, just - do you see that?---Yeah, I see that, yeah.

30 And do you know what what's about, what entry refers to?---Well I bought a TV.

Right, okay. And if you go to the next page was 236. Do you see there's a credit card docket?---Yes.

And is that your signature on it?---Yes.

On 29 June 2007?---Ah hmm.

40 You've bought something valued \$4200 at Harvey Norman Electrical - - -? ---Yes.

- - - at the Moore Park Supa Centre. Is that right?---Yes.

And I'll just take you next to financial 2, 238.

THE COMMISSIONER: 238 or 248?

MR STRICKLAND: I'll take you to 238 first. You got 238? And that's a Harvey Norman docket and it shows a - breaks down a purchase of a Pioneer Plasma - - -?---Ah hmm.

- - - TV \$4000, and a Dolby digital sound system for \$300 and then a component cable for \$100. Do you see that?---Ah hmm.

And it's a tax invoice, the tax invoice is made out to Kings Security - - -?---Yes.

10

- - - and the pick up delivery address is Kings Security?---Yes.

And if you then go to 248 there's a, there's a reference, it's actually under, under date process, it's processed 3 July '07 but it's got the date of transaction 30 June '07 at Moore Park - - -?---Yes.

- - - and there's, there's one for \$99 and one for \$4200?---Ah hmm.

Do you see that?---Ah hmm.

20

So from those documents you accept that you went to Harvey Norman on 29 June and purchased a Plasma TV, sound system and a component cable? ---Yes.

Does that sound right or something along those lines?---Mmm.

And do you remember, remember providing that or giving that to Mr Cameron Creary?---Yes, mmm.

30 And what were the circumstances in which you - what, you gave him a Plasma TV?---No.

Well you provided him with a Plasma TV. Is that right?---Sold him that Plasma TV. Yeah.

You sold him a Plasma plus, plus a Dolby system. Is that right?---I can't remember. I bought, I bought two (not transcribable) paid for the other one.

40 When you say you bought two - - -?---Mmm.

- - - if you go to 238?---Mmm.

It says you only bought one - according to that document you only bought one?---I definitely bought two. Like I've got one at my own house.

Well on this particular day if you look at your - if you look at 248 - - -? ---Mmm.

- - - 238 and 236 and the numbers, it suggests you only bought one. Do you agree with that?---Yes.

So you went to Harvey Normal Supercentre - - -?---Mmm.

- - - on 29 June or 30 June and you bought a TV for Cameron Creary. Is that right?---No. I bought this one for myself.

I see. So this one, this particular plasma TV - - -?---Yeah.

10

- - - you bought and you, you retained that one did you?---Yeah. And it says delivery address , , .

Okay. But you say you bought another TV for Cameron Creary?---Well I was talking to him for months and months about the best type of TVs and at the time he kept telling me that plasmas, the Pioneer's were the way and everything and then I started shopping around and whatever their price was and he said, I told him, I said I can get one for whatever the price was at the time and he said, oh, see how much you can get two for. He said he wanted one also and he'd pay me cash for it. So I thought I bought two at the same time or maybe they didn't have two in stock.

20

You accept you only bought one on this occasion. Is that right?---Well - - -

Based on the records that I've shown you?---Yeah, yeah. Well I think he gave me a good price for two, so on those records yes, one.

Okay.

30 THE COMMISSIONER: So I don't understand that. If you said you bought it because you could get a better price for two than one, why do the records show you only bought one?---Maybe they didn't have it in stock. I don't know. I can't remember that far back.

So you didn't, you bought it without getting a better price?---No, that's not the case at all. It was heaps better, I mean when I rang Cameron he said, oh he was going to buy one and it was 10 per cent more or something.

40 Why didn't he go to Harvey Norman and buy it himself?---Well we've got our name up there, an account, maybe they gave us a better deal.

I mean this is just an ordinary commercial retail - - -?---No.

- - - transaction isn't it?---Well at the time it was the latest model Pioneer - - -

But it's just somebody walking off the street, going into Harvey Norman and buying a piece of equipment?---Well at the time Cameron wasn't very mobile.

He wasn't very mobile?---Very mobile, no.

What was wrong with him?---Oh, he had some weight issues.

Pardon?---He had some personal issues.

10

Like what?---Weight issues.

You mean he couldn't get transport to go to Harvey Norman to buy his own television set?---Well he lived up on the central coast.

Are you saying there's no Harvey Norman there?---I don't know. It was – he just said to me, I can't get it at that price, can you get, order for me. Maybe it was - - -

20

How did he, how did he know the price? How did you know the price before you went into the shop?---Because I went there looking and when I found it and I negotiated with the guy a good price and I rang him and I said, do you reckon this is a good price? And he said, yeah. It might have been over a couple of days. I can't remember. But there was nothing, you know he said get it and then, I think it was delivered to his house from memory. I could be wrong, maybe.

Well your, your bank account only shows one purchase - - -?---Yeah, and he gave me the cash for it.

30

- - - from the period 19 June to 11 July?---Mmm.

So when did you buy the second one? Why was there such a delay? Or when did you buy the second one?---Well I thought it was at the same time, but it might have been earlier, it might have been later. I don't know.

Well why would it be earlier and why would it be later if you were buying them together?---Oh actually maybe, maybe mine was later because I actually wasn't – I'd ordered it because we'd just bought a house in Curl Curl and I think we were waiting for the renovations to be done.

40

MR STRICKLAND: Let me just understand this you had a discussion – let me just get the order of events?---Yep.

You had a discussion with Cameron Creary?---Yeah.

And he asked you to buy him a plasma TV. Is that correct?---Well we were discussing TVs, the best type of TVs and everything and then I remember, I

just remember having a phone call with him and I said, yeah, I'm going to get one and it was going to be so much and he said, oh I can't get it for that price can you get me one and I'll pay you cash. I said, no problem.

Right. So you said to him you would buy him a plasma TV?---No, I didn't say I would buy him a plasma TV.

You would acquire a plasma TV for him. Is that right?---And he would pay me for it.

10

Yes. Okay?---In full.

And – but you said to him – because you were getting one at the same time. Correct?---I was talking to him about the best type of TVs around and he's an IT expert and - - -

But just answer the question, because you told him you were buying one at the same time?---Yes.

20

Right. So I take it that when you went to Harvey Norman- - -?---Yes.

- - -you, your intention was to purchase two TVs, one for him and one for you?---Yes.

And you did purchase two- - -?---Well, maybe I went there with the intention to buy one TV. I can't recall.

30

Sorry, why would it be your intention to buy one TV?---I, I was there, he was telling me this is the best one and I said, "This is what I'm going to buy, I can get it for this price", and he said, "Oh, I can't do it for that price, can you order for me?"

THE COMMISSIONER: I thought you said that you bought, you bought two because with two you'd get a better price than getting one?---Well, that's what I thought, I thought there was two, then, well, maybe I- - -

How does that reconcile with your latest version?---What's my latest version?

40

That you bought one?---Well, that's what you've only got the records here for is one. I'm saying I thought I bought two. I've definitely got one at my house so- - -

MR STRICKLAND: So if your recollection is that when you went to Harvey Norman you bought two plasma TV sets. Is that correct?---That's correct.

Right. And- - -?---I went back a few times, I don't know which time I went

- - -

THE COMMISSIONER: But you bought them together because buying them together you thought would give you a better price?---Yeah.

Is that right?---That's what I, that's, from my memory that's what happened, yeah.

10 MR STRICKLAND: So you, how did you deliver the plasma TV for Mr Creary to Mr Creary?---I think I just gave them the delivery address.

I beg your pardon?---I thought I gave them the delivery address.

You gave who the delivery address?---The, Harvey Norman.

THE COMMISSIONER: So Harvey Norman was going to deliver it to the Central Coast, was it?---Mmm.

20 Did they charge for that?---I don't, I don't know, I don't think so.

What, they do that free?---Well, they install it.

What branch was that? I must go there?---I'll buy you one (not transcribable) cash. Special deal for you, Mr Commissioner.

MR STRICKLAND: So you arranged for delivery of a plasma TV to Mr Creary at his Central Coast home. Is that right?---Yes.

30 And you say that later he paid you cash for it?---That's, yes.

How much cash did he pay you for it?---Oh, the exact amount of the TV, 'cause I showed him, I gave him the invoice and the exact amount. I didn't

- - -

And what did you do with that?---I didn't mark it up, I didn't give him a discount.

40 So the, and apart from the plasma TV there was, there was also can I suggest a Dolby sound system that you acquired for him. Do you agree with that?---You've got the delivery docket that came to my house, I'm not sure whether, I, I don't know.

So he paid you something in order of four to four and a half thousand dollars?---Yep.

Cash, is that right?---Yes.

And what did you do with that cash?---Spent it.

THE COMMISSIONER: I beg your pardon?---Spent it.

MR STRICKLAND: You didn't put it in the bank?---No, probably not.

And did you, do you regard going to Harvey Norman and purchasing a TV and arranging for its delivery a favour to Mr Creary, is it, were you doing him a favour?---No, he was doing me a favour, I was able to buy two and get a better deal.

10

But you see that statement you've made, the truth of it depends upon you actually having purchased two plasma TVs, doesn't it?---(No Audible Reply)

Do you agree with that?---Well, from my best memory I bought two.

But the records suggest you only bought one?---So what happened, I stole the other one?

20

Well, the other alternative is you only bought one and that was the one that you gave to Mr Creary?---Well, come around to my house and there's, magically there's one there and I'll bet you it's that serial number. Come around tonight and watch the football if you like.

THE COMMISSIONER: Mr Diekman- - -?---Sorry, I take that back.

- - -the, the cheque that you used to pay Harvey Norman for this television set, is that a, is that a cheque from your own bank account?---It's a credit card.

30

It's a credit card?---That's right.

MR STRICKLAND: (not transcribable) 236.

THE COMMISSIONER: That's right?---I think that, I think that was my personal credit card.

40

MR STRICKLAND: Okay, thank you. Now I want to ask you about another area which Kings did work and that is for the Department of Housing.

MR DUNNE: Excuse me, Commissioner. Before my friend's finished asking questions about page 255 if I could ask for a suppression order in relation to the address of Ms Newman and (not transcribable)

THE COMMISSIONER: Yes. There'll be a suppression order in relation to the address of Ms Newman.

MR NAYLOR: Commissioner, might there be a suppression order in relation to Mr Diekman's home address.

THE COMMISSIONER: There'll be a suppression order in relation to Mr Diekman's home address.

MS HUGHES: Commissioner, I'll be seeking a suppression order relating to Mr Huskic's (not transcribable) details.

10 THE COMMISSIONER: I beg your pardon?

MS HUGHES: Sorry. I'll be seeking a suppression order in relation to Mr Huskic's bank account details.

THE COMMISSIONER: Yes. There'll be a suppression order in relation to Mr Huskic's bank account.

MR STRICKLAND: I just want to ask you about a different area that Kings did work for that's the Department of Housing. You knew a Mr La Greca, is that correct?---Yes.

And he was a consultant at IPP?---Yes.

Were you friends with him?---Business associate and (not transcribable) at industry functions.

Apart from industry functions did you socialise with him?---No.

30 And he was the person you dealt with at IPP, is that right?---One of the people I dealt.

Is he the main person you dealt with at IPP?---Well on the DOH job, yes. I had very little to do with it just at the beginning.

Okay. So on the DOH job - - -?---Mmm.

- - - that's the Department of Housing - - -?---Mmm.

- - - is it correct to say that Mr La Greca was the only person at IPP you dealt with?---Yes.

40

Okay. I just want to show you some documents in relation to the housing job?---Mmm.

First if you could have a look at 17, this is housing 17 through to 22. Now I'll just take you to 17 first, an email from yourself to Mike Cunningham and I'm just putting this to you as a - to see if I can refresh your memory about Kings involvement - - -?---Yeah.

- - - in the Department of Housing project?---Mmm.

That's a, an email thanking Mr Cunningham and Mr McLaughlin for inviting Kings to submit our tender for the DOH projects?---Yes.

Could you excuse me just for one moment. And if you go to 19 and 20 and 21 and 22 their the quotes that you - that Kings Security submitted for different departmental - - -?---Yes.

10 DOH jobs at different locations being Blacktown, Penrith. Do you agree with that?---yeah.

Okay. Now if you could next have a look at the Department of Housing 48 to 54. Just have a look at that and I'll show it to you, or read it out if you could. And I'm not suggesting you've seen these, but I'm just again showing these to you to refresh your memory. This is an email from Mr La Greca to Mr Cunningham in relation to the tender report for the security service. And if you just look at page 53 and 54, he refers, he writes his
20 recommendations that after a lengthy instructed process of reviewing the tender submissions, the following recommendations are being put forward. Do you see that?---Mmm.

Have you got that?---(No Audible Reply)

Under the heading, on page 53 under the heading Section 5 Recommendations?---Yes.

So Mr La Greca's written that after lengthy instructed process of reviewing the tender submissions, the following recommendations are being made, and
30 then he says in the last sentence of that page, "It is the opinion of IPP Consulting that the best value relating to the equipment and technology being used comes from Kings Security." And over the page he recommends Kings Security to undertake the work. And you were aware, weren't you, that Mr La Greca had a role in recommending the DOH who would get the tender job for particular, a particular contract at Penrith and Mount Druitt?
---Sorry, I was aware Mr La Greca was what?

You were aware that Mr La Greca had a role in recommending who would be awarded government contracts for Penrith and Mount Druitt?---I don't
40 know whether he had, I wasn't aware that he was, you know, it was his decision 'cause these went to a builder so the builder normally does what they want to do.

Well, I think you said it before lunch, you knew Mr La Greca?---Yes.

You knew that he had a role as a consultant for IPP for DOH jobs?---Yes.

And I take it that you knew that one of the roles of a consultant- - -?---Yes.

- - -was to recommend which contractors- - -?---Yes.

- - -got particular jobs?---Yes.

And you knew, you knew, didn't you, or you certainly knew at the time that you were tendering for some DOH work, didn't you?---Yes.

And you knew that in his role as consultant for IPP- - -?---Yes.

10

- - -he had a job in recommending whether you got the job or another company. Correct?---I wouldn't know whether he, he had the job to recommend or not. Sometimes the consultants just bundle the quotes and sent it off to the builders. I don't, I don't, I wouldn't know whether he could recommend or not.

Well, put it this way. You knew that you were tendering for particular jobs at DOH, didn't you?---Yes.

20 That meant i.e. there was competition for that job?---Yes.

And as the IPP, as the consultant for IPP you knew that he had a role- - -? ---Yes.

- - -in deciding which contractor got the job?---Oh, I didn't know that, no.

Well, that's, if you knew he was the consultant for DOH- - -?---Mmm.

- - -as you said you did- - -?---Yes.

30

- - -what does he do?---Design.

I beg your pardon?---The brief.

Yeah, he's responsible for making sure that security, the security job that DOH wanted was done. Correct?---(No Audible Reply)

40 That was his job?---Well, a lot of the time the, ask any consultants, alls they do is do the design of it and pass it on and they don't, they don't get involved in the commissioning or the, the (not transcribable)

Let me ask you this. Do you now, do you now recall whether Mr La Greca had any role at all in relation to the DOH jobs that Kings did?---Yes, he did.

And what was his role?---He issued the tender documents.

Yes?---And I believe he did the witness testing.

And what does witness testing mean?---To ensure that the system was installed to the specification.

Okay. And was Mr La Greca one of those people who you regarded as being influential in determining whether Mr, whether Kings got, not just the DOH job but any job for which IPP was consulting for?---Well, he was, he was a consultant that provided services to departments and we were able to, to, we would always try to be on the best foot there to get our company on the list.

10

THE COMMISSIONER: He's, he's the appointed consultant because the department hasn't got the know how to do it all themselves I take it?
---Mmm, yeah.

And so that means he's got to really do all the specialised work involved in getting them the security they want?---A lot of times you find the consultants - - -

20

Is that right or not?---Yes, but it depends on how much they take up of the work.

Yes. And he would be regarded by the department as being familiar with the people in the industry?---I assume so.

So he's obviously a person in a position to give advice to the department as to which integrator should be awarded a contract?---Yes. But I wasn't aware if he gave advice on that. I wasn't hired - - -

30

MR STRICKLAND: What I want to put to you generally that from your point of view Mr La Greca was an important person who, who you wanted to impress or – do you agree with that?---It was an industry, and industry consultant that yes, we wanted to make sure that he thought our work was the best.

Yes, but he was – what I'm putting to you is he was a particularly important person given his position as a consultant. Do you agree or disagree with that?---Well no more important than other, than other people in the industry that - - -

40

THE COMMISSIONER: No more important than another consultant?
---Mmm.

In the sense that it's the consultant who has got a lot of power and who gets the contract?---Not in all cases, no.

Not in all cases, but in most cases?---I tend to disagree with that.

MR STRICKLAND: Well let's just focus on this case. You knew didn't you that Mr La Greca was an important person as a consultant in relation to the awarding of the DOH contract. Do you agree with that or not?---I, I wouldn't know whether he – yes, he's an important person, okay. I agree with that.

10 I'm talking about – just in relation to this – the DOH contract - - -?---I did not know whether he had any – whether it was just a tender that he put out and he has nothing to do with it or that it's a tender that he puts out and then it's his decision. I would have no idea at all.

Now you also knew that around this time that there were some contracts or some tenders being opened for the University of Western Sydney didn't you?---Some time around there, yes.

You knew Mr La Greca was the consultant for UWS contracts didn't you? ---Afterwards. Yes, I did know, yes.

20 You did know. And so – and he was an important person in relation to those contracts wasn't he or those tender bids wasn't he?---Call him an important person or you can call him a consultant.

No, no, I'm asking – let me be clear. I'm asking you about your knowledge and understanding at the time about the significance of Mr La Greca and in his role as a consultant. Do you understand that?---Yes.

30 And what I'm putting to you, and you don't have to agree with it, is that you knew at the time he was an important person who could, who could influence the awarding of government contracts in relation to both the Department of Housing and UWS. Do you agree or disagree with that?---I was not aware he could influence - -

Influence what?---The Department of Housing or UWS.

Okay. Thank you.

THE COMMISSIONER: Even though he was their consultant?---Well as I said - - -

40 Just answer. Say yes or no?---Yes.

You, you didn't know whether he could influence the – award contracts even though you knew he was their consultant for these contracts?---I didn't know whether he – possibility he could, possibility he can't. I didn't know.

All right. So you knew that there was a possibility that he could influence the award of the contracts?---You're twisting, you're twisting my words there.

I'm certainly not twisting your words, those are your words?---Start again, sorry I'm - head's gone again.

MR STRICKLAND: I'll move on. Could you just be shown documents Housing 55 to 57. And if you just go to page 56 please an email from you to a number of employees at Kings, and in that email you've written the DOH job in Mount DrUITt and Penrith are hoping to be challenging and they're the jobs - - -?---Mmm.

10

- - - they're the two jobs I was referring to you previously in that tender report?---Mmm.

Do you agree with that?

THE COMMISSIONER: Do you agree with that?---Sorry.

MR STRICKLAND: Did you hear my question?---No, no, sorry. Go on.

20

If - just - Mr Diekman, I know it's difficult but just listen the question otherwise - - -?---Mmm.

- - - it'll take us a bit long or longer. The question was in your first sentence in that email the reference to the DOH job in Mount DrUITt and Penrith was a reference to the jobs that you had tendered for and won in the contract - in the tender report I previously shown you?---Ah hmm.

Do you agree with that?---Ah hmm.

30

You got to answer verbally - - -?---Yes.

Because Mmm is not recording - recorded. You then say in the fourth paragraph, "The consultant for the job is Chris La Greca from IWPP, IPP", and you then say, "It's very important we perform Chris is the consultant for the University of Western Sydney." Do you see that?---Yes.

40

So having read that email do you agree that you knew at the date that you wrote this email that you believed that it was very important that Kings did a good job on the DOH to impress Mr La Greca because he was also the consultant for the University of Western Sydney job that was coming up? ---Yeah.

And why was it very important that you performed and impressed Mr La Greca?---Well if he's going to see the quality of our work we're going to make sure it's spot on I think.

Why was - but surely, Mr Diekman, it's there in black and white that the reason why you wanted to perform for Chris La Greca was because you

knew he would be - as the consultant for the University of Western Sydney -
- -?---Yes.

- - - he would be influential in whether Kings was awarded that contract or
not?---I, I wouldn't know that.

Yeah. But well - but at the time you wrote the email you did didn't you?---I
wouldn't know whether he'd influential.

10 THE COMMISSIONER: So why did you say it's very, it's very important
to perform Chris is the consultant?---It's very important Chris is the
consultant (not transcribable)

Why did you say that if you didn't know that he had - he was in a position
to influence the grant of the UWS contract?---It's not so much influence, to
make sure there's no bad press comes out. Like we - we went and made
sure we did a good job 'cause the last thing we wanted was the - - -

20 What's it got to do with Chris? What has it got to do with Chris?---It's just
such a small, it's such a small industry and rumours fly around all the time
and you do a bad job you know people hear about it.

So it could influence the grant of the UWS contract if you did a bad job?
---Yes, I'd imagine it would do if you did a bad job that would influence.

'Cause Chris would know about it and he would pass it off?---Correct.
Well, he could - - -

30 If you did a good job he'd know about that and pass that on too?---Could
do, yes.

Pass on to UWS?---Could do.

40 MR STRICKLAND: If you just continue on. The UWS with IPP have
selected Kings and two others for a closed selective tender to upgrade all
facilities with concept 4000 and insight, along with this there is a 700K
camera job, a total job estimate, is estimated to run out to two to two and a
half million over two years. There are several other capital work projects at
UWS and the successful tenderer will be the preferred company on the
tenders. So do you recall that - what you are saying to your employees was
that there was a very big jog coming up at UWS worth a lot of money to
Kings?---Yeah.

UWS?---This is just a general email out to all our staff to ensure they do a,
do a good job and give them a bit of a rundown of what I know.

That's why it was very important to perform on the DOH job to impress
Chris La Greca, because he was the consultant on UWS?---This is just a

general email out to all our staff to ensure they do a, do a good job and give them a bit of a rundown of what I know.

THE COMMISSIONER: You were telling them the truth, I take it?
---Yes.

MR STRICKLAND: Just go over the page, the third-last paragraph. You've got, "Chris La Greca IPP was happy with the DOH Burwood job, well done, Trent, and has been asking a lot of questions around some
10 industry heavyweights about Kings and their ability to deliver a project like UWS." Do you see that?---Mmm.

So you knew then, didn't you, that La Greca was asking questions to see whether Kings had the ability to deliver the UWS project. Correct?
---Probably that's what I was thinking, yep.

Well, when you say probably, there can be no doubt when you read- -?
---Yeah.

20 - - -the words that I read to you?---Yes.

And you knew therefore that La Greca was asking the question whether Kings had the ability to deliver a project like UWS because he was an influential person in determining whether Kings got the UWS contract. Correct?---I, I, it was a matter of just ticking every single box and Chris La Greca was part of that.

Do you agree with what I put to you or do you disagree?---Well, I don't, I don't agree and I don't disagree.
30

If the witness could be given 58, housing 58 through to 81. Now, at the bottom of that email on 2 May, 2007, you asked, you can see you asked Chris to send you the DOH security procedure document and that he replies, attaching the document and then saying, "Also keep an out for the chance to quote on more work coming from DOH, we are currently documenting three more sites." Do you see that?---Yes.

So it appears from that email that he was wanting to assist Kings to ensure that they would quote on more work coming from the DOH. Do you agree with that?---Yeah.
40

And I take it that you were on good terms with Mr La Greca. Is that right?
---I think I've met Chris probably twice at industry functions and I think I've been in their office once and probably spoken to him a half a dozen times on the phone.

And why did you want him to send you the security procedure document?
---Oh, I couldn't recall, I don't know.

Do you remember what you needed it for?---No, I don't.

Now, if you could then be given housing 86.

10 And in that email on 30 May, 2007 Mr La Greca informs you that he was impressed when he went out to the Penrith and Mount Druitt jobs, with Kings doing a very professional and meticulous job. And then he says in the last line, once again thank you very much and keeps your eyes open for another three sites coming up. And again do you agree that he was assisting Kings in making sure that they were alert to the fact that they'll be other DOH contracts coming up and that you should be quoting for them when they do? Do you agree with that?---So he's assisting Kings?

Well he's giving information to Kings to alert them to other contracts that were coming up and inviting you or suggesting you tender for them. Correct?---Keep your ears open, yes.

20 All right. If you could then have a look at Housing 87. And the bottom email is an email from Mr La Greca to you on 15 June attaching the documents relating to the security, relating to security services for three further offices in the DOH, Bankstown, Liverpool and Campbelltown. And he asked you to respond and then you respond on the same day and confirm that Kings will be submitting a complying tender for spots. Is that correct? ---Yes.

30 And so again you, you knew from those emails that Mr La Greca had a role in relation to the tendering for the three, for three additional offices at the DOH at that time?---Yes.

And if you could have a look at please Housing 92 to 107. And do you recognise that as a, as Kings quotations for the DOH jobs at Campbelltown, Liverpool and Bankstown?---Yes.

A quotation in a covering letter to Chris La Greca from you on 26 June, 2007?---Yes.

40 And if you go to page 100 in that document you can see that you are named as the person in overall charge for the contract?---Yes.

And was that the case that you were the person in overall charge for those three contracts for which you were quoting?---Yes.

Okay?---Well we had a project manager on site though.

Now the, the quotes for the job are contained in those pages that I've given you. And if you just go to page 93, you see there are three quotes, one for each, for a fixed lump sum tender?---Yes. Ah hmm.

And the total of those quotes exceeds \$200,000 excluding, excluding GST?
---Ah hmm.

Is that correct?---Yes.

Okay. Now you won those – you were awarded those contracts weren't you?---I believe so.

10 And you knew didn't you that Mr La Greca recommended Kings to the DOHS, to the Department of Housing, as being the company that should - -
-?---I do now because you showed me the documentation.

That was for earlier, they were, they were for the earlier two offices, I'm now showing you – these are three additional ones. One – the two that I showed you before were for two other offices. These are for three additional, three additional offices?---Right.

20 THE COMMISSIONER: You can see that on page 93, Campbelltown, Liverpool and Bankstown?---Yeah, I can't really recall that much of it but, you know.

Well, they are different from the first two?---Right.

MR STRICKLAND: The first two I think were Mount Druitt - - -

THE COMMISSIONER: Penrith.

30 MR STRICKLAND: - - - and Penrith. Did you know that – I take it that when you were submitting these documents to Mr La Greca and bearing in mind that 19 April email I showed you about the need to – it was very important to perform for Mr La Greca, I take it you knew that he had a role, an important role, in recommending whether Kings won the three other offices for which you had put in three quotations?---If he was an important person, whether – I kept saying I don't know whether he has that authority to recommend people, I don't know that.

40 Well, what I'm suggesting to you is that at that time you knew that he had an important role in determining whether you got the three contracts that you were bidding for, do you agree with that or not?---I, I don't know.

If the witness could be shown 111, pages 111 to 116 and if you go to 112, can you see that is a Department of – a tender report for security services prepared by Chris La Greca for the Department of Housing for the offices at Bankstown, Liverpool and Campbelltown. Do you see that at page 112?
---Yes, yes.

And if you go to page 116 and you look at his recommendations you can see that he's recommended Kings, last paragraph, "We have no hesitation in recommending Kings Security to undertake the works as specified based on the proposal they have given. Their understanding of the project they have demonstrated and the fact that they have now have a good understanding of the requirements expected by DOH". Are you saying that that's the first time – this is the first time that you were, are aware that he's actively recommended Kings for any of the five offices?---I couldn't – you mean now?

10

Yes?---Right now?

This is the first time you knew that he had a role in recommending Kings?
---I, I don't know but, you know, he would have.

THE COMMISSIONER: We are not asking you – that which we are asking, Mr Strickland is asking whether this is the first time that you learnt that Mr La Greca had a role in recommending Kings?---I probably, I've never made an assumption before.

20

Sorry?---I never made an assumption before, I knew from myself on the job and you have to impress them but, you know, I never made an assumption yes, he's the, he's the man that, ticks the box, you know.

It's not being suggested he's the boss, it's being suggested that - - -?---He has influence.

- - - he has influence with the boss?---Yeah.

30

So is this the first time you knew that he had a role in influencing the boss, DOH?---Well, what do you mean by influencing? I'm losing the, your ideas here (not transcribable).

Proceed, Mr Strickland.

MR STRICKLAND: Have you ever arranged for the payment of cash to Mr La Greca or anyone else at IPP?---No.

40

Have you ever asked anyone at Kings to provide a cash payment - - -

THE COMMISSIONER: What was the answer to that? Did you get - - -

MR STRICKLAND: You shook your head no, is that correct?---I haven't, not that I can recall.

Well just to have it recorded when I asked that question you shook your head. Is that correct?---Can we start again.

Yeah. When I asked you that question you shook your head to indicate no?
---Could, could you ask the question again?

I will. Have you ever arranged for the payment of cash to Mr La Greca or
IPP in relation to the DOH contract or any other contract?---No.

Have you ever asked anyone at Kings to provide a cash payment to Mr La
Greca or IPP in relation to the DOH contract - - -?---No.

10 - - - or any other contract?---No.

THE COMMISSIONER: That's a no?---No.

MR STRICKLAND: Okay. I just want to show you an email this Poller 87.
If I could - Poller 87, please. I'll just have to get you to read it from the
screen at the moment if you don't mind?---"I need the following cash, DOH
IPP."

20 I'm sorry I'll - I didn't mean aloud but first do you - - -?---I'm sorry.

It's okay. Do you recognise that as an email that you sent Mr Roche - - -?
---Yes.

- - - on the 29 June 2007?---Yes.

And this is what you wrote?---"Peter, I need the following cash"?---Mmm.

30 Or I should say sorry before that, the subject of the email is cash. Do you
see that?---Yes, yes.

And then it's got, "Peter, I need the following cash - - -?---Yeah.

- - - DOH IPP 5K"?---Mmm.

(not transcribable) \$500, King St Wharf 500, total 6K?---Yeah.

Why did you ask Peter Roche for \$5000 cash for DOH IPP?---Probably to
pay some contractors doing (not transcribable) hours work there.

40 When you say pay some contractors IPP as you know and as you've said
was a consultant - - -?---Sorry, I - - -

- - - not a contractor?---Yes. Where we got, where we've got DOH IPP I'm
just referring to the job not referring to IPP I'm referring to the job 'cause
we were doing a number of Department of Housing jobs that IPP weren't
involved in.

See what - is what - the explanation you've just given is that when you
wrote DOH IPP you were referring to the Department of Housing job - - -?

---Yes.

- - - only?---I was referring to the Department of Housing job that IPP were the consultants on. Okay. So we had DOH jobs that IPP weren't on.

Why did you need \$5000 cash for DOH IPP?---It was whether paying, paying some contractors working at night or maybe with my commission I don't - I can't recall (not transcribable)

10 Look you spoke a little too fast there. Just - you gave two alternatives. What was the first one?---It would have either been to pay some contractors to do work at night or I might have been saying it's my commission I don't know.

THE COMMISSIONER: I beg your pardon? It was your commission?--- Yeah.

Did you say it's your commission?---Mmm.

20 MR STRICKLAND: Well I'll just take the second one first?---Mmm.

Are you saying that you - that you wanted cash for - in the amount of \$5000 as a commission for your role as the - - -?---Sometimes I'll say that, I'll make any excuse up.

THE COMMISSIONER: What, what do you mean you'd make any excuse up?---Well to get cash, why, why I deserved it, or, or you look they could have been night, because we - that job was a lot of night time work for memory so.

30 MR STRICKLAND: But just - I just want to get back to the - you posited two alternatives, because you say you can't, you can't remember. Is that right?---Mmm, mmm.

Is that correct?---So I'm guessing. So I shouldn't guess, okay. Well what - let's just get one thing clear. You don't remember now do you why you asked for \$5000 cash in relation to DOH IPP?---No.

40 Right. So you have two explanations based upon your practice. Is that right?---Correct.

The first explanation is in relation to paying consultants who worked - contractors who worked out of hours?---Yes.

That is people you - organisations you sub contracted with to do work on the DOH?---Jobs. Yeah or it might an electrician on site and we'll say that can you run those cables down for us 'cause you're pulling walls down at night time and I'm paying cash.

Okay. Now, if it's the, let's, we'll just take the former first. If it was that, then there is no doubt, is there, that there would be either you or Peter Roche would have ensured that Greg Poller would have recorded that legitimate disbursement in the company records as a Kings expense?---I don't, I don't know.

What do you mean you don't know?---I don't get involved with the accounting side of it.

10

Well, it was in your interests to ensure, wasn't it, that when money was spent on contractors- - -?---Mmm.

- - -that that would be entered as a business expense for Kings because apart from anything else, you would get a tax deduction for that expense. Correct?---That's what you say.

I beg your pardon?---If that's what you say, I mean, I don't- - -

20

THE COMMISSIONER: Don't you know?---I don't get involved.

Don't you know?---Don't I know what?

Mr Diekman, don't you know that if a job costs you more and your expenses are higher you pay less tax?---Job costs you more, expenses- - -

Are you saying you don't know that?---I leave the accounts- - -

30

Are you saying you don't know?---Could you say it again, say it again because I'm- - -

Are you saying that you don't know that if on a particular job the expenses of Kings are higher than what was originally estimated because you've got to pay contractors cash, that your profit is less and therefore you pay less tax?---Yes, I can understand that.

Did you know that?---Well, you've told me that.

40

No, I'm asking you whether you knew that?---Well, yes, I do know it, yes.

You knew it then?---Well, I don't think about it much but I just go out and do the work.

Whether you think about it a little or whether you think about it much, did you know it at the time you sent this- - -?---Probably.

- - -email?---Yes, probably.

So you, I take it, took steps to ensure that this expense was recorded in the books of Kings?---I wouldn't have taken note that it was recorded, I don't get involved in that.

MR STRICKLAND: Yes, but you, when you say you don't get involved in that, is it the case that for each and every cash payment that you requested from Mr Roche or Mr Poller, Mr Poller would chase you up to ensure that he got the information to be able to record that on the company accounts?
---Yes.

10

THE COMMISSIONER: Just what I don't understand is, what contractors do you use who would want cash for after-hours work?---Well, I know on the case of, say an example with DOH, that our component of work is quite small and the builders might be coming through one night and knocking walls down and they're going to have electricians onsite and to have us onsite we've got to pay the guys either cash or four hours, and it might only be a five-minute job, but they had to be there because they're knocking a wall down, so often we'll go to the electrical guy onsite and say, hey, can you do this for us, there's no point in us coming all the way out for one
20 night, and we'll pay them cash.

MR STRICKLAND: But see if I just take you back to the page 100, please. Have you still got that?---No.

See, in relation to the DOH job- - -?---Ah hmm.

- - -you were in overall charge of the contract, but your project coordinator was Steven Kuryj- - -?---Yes.

30 - - - K-U-R-Y-I- - -?---Mmm. Mmm.

- - -and your foreman onsite was, was who, Eric- - -?---Eric Traynor.

Eric Traynor?---Yeah.

And that was Steve Kuryj's either only or principal job wasn't it, to project coordinate that site?---Oh absolutely not. Steven would be running 10 or 15 jobs, probably more.

40 I want to suggest to you that at that time he, he was heavily involved in that job. Do you agree or disagree?---Well he was, he was the man on the job, yes.

THE COMMISSIONER: Heavily involved?---He's a project manager, so he's not there running cables himself.

Heavily involved as project manager?---Yes, okay.

MR STRICKLAND: Do you agree with that?

THE COMMISSIONER: He said yes?

THE WITNESS: Yes.

MR STRICKLAND: All right. So - - -?---Along with probably 10 or 15 other jobs.

10 So why on earth couldn't he be the person to pay the electricians - - -?---I'd never let, I wouldn't let our guys do it.

Why not?---It wasn't right.

I beg your pardon?---It wasn't right.

THE COMMISSIONER: Why not?

MR STRICKLAND: What wasn't right?---To give cash to them to pay
20 them. I just thought if I'm going to pay cash, it's coming from me.

Can you just explain what was it that wasn't right that Mr Kuryj couldn't do it? What wasn't right?---Well for a start I can't remember if that was – that job we did pay cash, I can't recall.

I beg your pardon?---I can't recall if we paid contractors cash on that job. I can't recall. I said I assume we may have.

Oh, I see?---Yeah.

30

Because your other explanation is that you used it for your own personal expenses?---Yes.

I see. But as you don't recall we're acting simply on two explanations you've given - - -?---Yes.

- - - based upon standard practice which you've agreed. Is that right?---I wouldn't call it standard practice.

40 Well it was your – the reason you give those two explanations it was your practice to either a) take money out of the company for your own personal expenses claim it was for some business expense. Correct?---Yes.

Or b) to pay contractors who worked at night or out of hours cash?---Yes.

They're the two practices. Correct?---Yes.

And we're just exploring the first one. Why do you say that you couldn't give the project manager the cash to pay the subcontractor?---Well I suppose I could, but I can't recall on that occasion I did.

But you said, you said, I suppose I could but you said that it wouldn't be right to do that. Didn't you just say that a moment ago?---Well I just don't like giving cash to our subcontractors and so our project manager used to - -
-

10 Why not?---It's just – I'd rather do that myself, negotiate that myself.

But you said it was wrong to do that didn't you?---Oh well, I twisted my words, sorry.

I beg your pardon?---I twisted my words.

You've twisted your own words?---Well you've twisting my words.

20 I beg your pardon?---You've twisted my words or I misunderstood.

Well did you regard it as being wrong to pay the subcontractors in cash?
---Do I regard it as being wrong?

Yes?---Well I regard it as an alternative that we probably had no other choice when we do that, because we need the work done and we need it done at night and we couldn't get a contractor to do it on normal rates.

Did you regard it as wrong or not?---Wrong in what sense?

30 Well that's the word you - - -?---The law or - - -

That's actually the word you used not myself?---Right. Oh no, I regard it wrong for me giving cash to my, for our project managers to go and pay them.

And is that because you regard it as being wrong to pay subcontractors in cash?---It's not good business practice.

40 Why not?---For the reasons of keeping records.

But why can't a record be kept if you pay a subcontractor in cash?---It could be I suppose but most subcontractors don't give you an invoice when you pay them cash.

Is it the case that you ever advised Mr Poller to record cash payments in the name of Dummy Contractors, that is, that is asked him to record the cash payments that you received in the name of contractors who haven't actually submitted a genuine quote or invoice?---Oh, you've, you've lost me there.

THE COMMISSIONER: I beg your pardon?---You've lost me there. Can you start again.

MR STRICKLAND: Did you ever ask or instruct Mr Poller to record any cash payments you received by a dummy contractor?---Yes.

That is, that is a contractor who hadn't actually done any genuine work for Kings?---Cash payments I received.

10

That's well - yes, that's correct.---So who's paying me cash?

Well I'm - the email at - of page 87 and it says, "You need the following cash." Do you see that?---Yeah.

And did you receive that cash?---I, I can't recall whether it was it or not.

When you asked for cash and this - - -?---Yes.

20

- - - and this email indicates you did, did you actually receive it?---I can't recall whether I did or not.

Did you receive a cheque made out to cash?---I, I can't recall.

Well I want to suggest that when you asked for these emails - when you ask in these emails for cash what you received was a cheque made out to cash? ---Right, yes.

30

Is that correct?---Yes.

Okay. What I'm suggesting is when you received and you received that cheque from Mr Poller didn't you? He was the one that gave it to you?---Yes.

40

What I'm suggesting is when he gave you that cheque made out to cash at some stage you had suggested to him or you told Mr Roche to tell Mr Poller to record in the system that the payment was to be made to a dummy contractor, that is to a contractor who hadn't actually given - who hadn't actually provided genuine work. Do you agree with that?---I would have said allocate it to a job.

Yes. Allocate it to a job which in fact hadn't been done. That's what I'm suggesting?---No.

No?---(not transcribable)

THE COMMISSIONER: Allocate it to a job in the sense of allocate it to a particular contract but for work that hadn't been done?---Well I'm not sure

whether the work would have been done on it, I probably would - well if it was out of hours work, yeah.

Mr - I think what's - to put it simply what's been - what you're being asked is, is it not the case that you from time to time asked for cash and gave instructions that the amount of the cash should be debited as a payment to contractors for work that the contractors had not done?---I'm not aware of saying it to put it a contractor, I'm not aware. I would have said just bury it in a job and he would have made up - - -

10

Bury it in the job?---Yes.

But burying in the job - - -?---Mmm.

- - - can only be affected if the expense is attributed to a particular contractor. Is it not?---I, I - well I don't get involved - - -

20

Or I suppose by saying that some equipment that you purchased cost more than it in fact did cost (not transcribable) One or the other you didn't, it didn't concern you what method was adopted as long as it was buried?
---Correct. Or expensed to the job, yeah.

MR STRICKLAND: Mr Commissioner, if I could just finish this, this particular segment and I'll conclude for the day.

If I can just understand this, if we go back to this email of the 29 June where you asked for cash for DOH IPP - - -

30

THE COMMISSIONER: Have we got that - I know it's been brought up but have we got that actual document?

MR STRICKLAND: I don't know, Commissioner. Do we? I don't think so at this stage. We do, yes, we do, thank you. Here's, here's another copy.

40

If the alternative one is correct and it's for paying contractors to do work at night that's what the \$5000 is for and if that alternative was correct are you saying you would have told Mr Poller in relation to how he accounted for it in the company finance records you would have said something along the lines of bury it in a job. Is that right?---Probably, yeah, yeah.

Right. And what did you - what does that mean?---Expense it to the job.

But to a, to a particular job?---Yes.

Okay. I.e. but by that you meant an actual - the actual job that Kings was - sorry that the job contractor had actually done. Is that correct?---Yes.

Right. Now if I just - - -?---We're not charging the client anymore.

I understand. If I can just show you this document, this is Poller 88. I'm sorry, perhaps also Poller 89, I beg your pardon. Now a few days after the 29 June email there is a cash – you see the – if you go to page 89 can you see a - - -?---Yes. Yeah.

- - - cheque for \$9,205?---Yes.

And do you see your signature on that page?---No.

10

Mr Roche to Mr Poller Correct?---Yes.

And, and if you go back to 88 you'll see there's a cheque butt - - -?---Yes.

- - - for the same amount made out to Security Merchants?---Yes.

Do you see that?---Yes.

20

Now I want you to assume from me that Security Merchants have provided a statement saying that they have never been paid by cash in that period or by cheque. It was only ever through bank transfer. Do you accept that?---Yes.

So if that's the case can you explain why a cash cheque 3031 for \$9.205 has on its cheque butt Security Merchants?---You'd have to ask the accountant that.

Well but I'm asking you?---No, no I don't know.

30

Did you ever say to Mr Poller or say to Mr Roche to say to Mr Poller, we need, please bury these cash payments in relation to a contractor such as Security Merchants knowing that they hadn't done the particular job for which that cash payment related to?---I don't, I've never had anything to do with saying where to bury it, but I used to say bury it and leave it up to him.

I see. Is that a convenient time?

40

THE COMMISSIONER: Yes. Mr Diekman, before we finish I just want to ask you some questions about this email. AstraZen is that the name of a contractor?---It was some concreting cutting we had to get done at a site.

Where?---I can't, AstraZen - - -

What contract was it? What contract did AstraZen relate to?---AstraZeneca, which is a drug company.

So what were you doing for AstraZen?---Putting in boom gates.

And how much was the contract about?---20 grand.

And King Street Wharf?---I can't recall what that was.

Was that a contract?---I can't recall.

10 What I'm trying to understand Mr Diekman, is if you needed the money say for commission, why you split it up between these three contracts of they were - - -?---Oh well the more I've had time to think about it, maybe I used the cash to pay, to pay contractors out of ours. But I can recall the AstraZeneca one – we had to get a concrete cutter up there to cut the concrete for us and on a Saturday or a weekend and I went up there and gave them cash.

So if we look at the books of the accounts relating to these three contracts we'll see work being done on them at this time the kind that you describe? ---It should do, yeah.

20 But you don't know?---Oh, you should.

But you don't know?---No.

So you're guessing again?---No, I said you should do.

Yes, but you don't know?---I'm not 100 per cent. You'd assume - - -

It's suddenly occurred to you has it?---What, what's suddenly occurred?

30 That this is – should be the case and that it's a question of paying contractors, when earlier on you didn't know whether it was that or paying commission, you couldn't remember?---The AstraZeneca one I can remember paying the concrete cutter.

Cash?---Yeah.

What's his name?---I don't know, I can't recall. Well, a concrete cutter out of the Yellow Pages, we don't use concrete cutters much.

40 Why did you pay him cash?---Because I wanted the job done on a Saturday when there was no traffic going through the boom gates.

Why didn't you use your own staff?---We don't - - -

Why didn't you use your own staff?---We don't, we don't cut concrete, you subcontract concrete cutting out.

And King Street Wharf?---I, I, I can't, I just can't recall that one.

MR STRICKLAND: Mr Commissioner, you just reminded me of something. Could I just ask you something else about this email. You said in relation to DOH IPP that you put, you've included it as IPP because you, you did a number of contracts for DOH at that time?---Yes.

Not using the – where IPP was not the consultant, is that right?---That's correct.

10 Which, which other contracts did you do for DOH where IPP was not the consultant at that time, that is - -?---I'm not sure that we did, we had done any at all at that time but I knew we had some files sitting on a desk there saying DOH Redfern, DOH Maroubra and so - - -

But none were at that time though?---Hey?

None were at that time?---No, no, I said we had some files sitting around, so I just kept thinking when we were talking about DOH we're talking about DOHIPP.

20 THE COMMISSIONER: Well, then it couldn't be for paying cash to contractors on that particular job, could it?---It could have been. I just can't recall.

MR STRICKLAND: Is it the case that the only DOH job you were doing at the time you wrote that email on 29 June, 2007 was the Department of Housing work in which IPP was the consultant?---I'd have to go back and check all our records.

30 THE COMMISSIONER: If that were the case why would you assume that to be so and why do you put the name of the consultants down as needing cash?---Because it was a way for me to recognise the jobs we were doing. Sorry, when we were doing DOH jobs that were going to out to builders so we were doing one at Glebe, we were doing one at Redfern, and doing stuff at Redfern.

MR STRICKLAND: And you've got a pretty good memory, don't you, for the precise jobs you were doing even five years ago, is that right?---No, no.

40 But just finally in relation to that subcontractor that you were paying \$5,000 for, do you know the name of this - - -?---No.

Do you recall – you don't know the name of the subcontractor?---No, I can't - - -

Did you use particular electricians on that job?---We wouldn't, we don't use electricians, they're there on the job.

I'm sorry, the subcontractor, is there a list of subcontractors you used?---We have a list of subcontractors but on that job there it would have been the builder on site - - -

You're saying that these contractors are not, are not - - -?---Not our, not our normal contractors they're - - -

(not transcribable) contractors that you were paying to do work for you because they were on the site?---'Cause they're on site, yeah.

10

MR STRICKLAND: Okay. But you, you haven't - you have no - did you yourself physically pay the \$5000 - - -?---I can't - - -

- - - cash?---I can't, I can't even recall the \$5000.

THE COMMISSIONER: But you must on your - on your - from what you've said you're the only person who you trusted you yourself would always pay 'cause you would - - -?---Yes.

20 Thought it was wrong to - - -?---Ah hmm.

- - - get someone else to pay?---That's correct.

So who did you pay it to?---I, no, I just cannot recall.

MR STRICKLAND: I take it you would have got a receipt then?---Well if I have I've lost it.

30 No. I take it that you would invariably have got a receipt if you're paying genuine cash for genuine work done?---Well the genuine work's finished.

Yes. You'd get a receipt?---And the bloke's done a good job and I got a good eye I'll pay, I'll pay him cash and if - - -

Yeah. And you get a receipt for it wouldn't you?---No, not - no.

I beg your pardon?---No.

Why not?

40

THE COMMISSIONER: You know your company makes less profit and you would pay less tax?---Not so much that. When we pay the cash at night time for the contractors in case we can't get anyone else to do it.

I know but whatever it is it means that you make less profit doesn't it?
---Yes.

So isn't it important to record that in your books and pay less tax - - -?---
Well maybe not. May be he would have charged us \$8000 if it was on the
books.

How is he - how is the contractor going to know whether it's on the books
or not?---Because I would have - when I normally do a cash deal I speak to
them and say look how much can we do it for cash.

MR STRICKLAND: Thank you.

10 THE COMMISSIONER: We'll adjourn until 10.00am tomorrow.

**AT 4.15 THE MATTER WAS ADJOURNED ACCORDINGLY
[4.15pm]**