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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 TUESDAY, 19 JUNE, 2012

AT 2.05PM

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

THE COMMISSIONER: Mr Strickland. I don't think we made the last set of emails an exhibit yet, Mr Strickland. Do you want to do that now or later?

MR STRICKLAND: Yes, I tender those.

- 10 THE COMMISSIONER: Yes. The string of emails ending with the email from Mr Diekman to Mr Roche on 3 March, 2008 is marked D32 and is an exhibit.

#EXHIBIT D32 - EMAILS BETWEEN MR DIEKMAN AND MR ROCHE REGARDING IPP/ACG COMMENCING WITH KURYJ "INCENTIVE & REVIEW UPDATE" EMAIL

- 20 MR STRICKLAND: If the witness can please be shown financial 244 and 245, 246, 277, 278, 281 and 282 and 164. I'm sorry, delete 164. I think I'll just start you off with one document just to make it easy. 277 - I'll start you with 277 and 278. I think we're going to need more room at the bar table, we are drowning in paper here. Do you recognise that as a bank statement of yourself and your wife, Alison Newman?---Yes.

And if you turn to 30 May on page 278 you'll see there's an internet transfer?---Yes.

- 30 \$7,500?---Yes.

And it's described as IPP ACG?---Yes.

And then on the same day there's a withdrawal for the same amount?---Yes.

And let me show you 281 and 282 and can you see there on 30 May this is - sorry, I withdraw that. This is your - a different bank account, do you see that?--Yes.

- 40 And it's got internet - on 30 May it's got internet transfer seven and a half thousand dollars?---Yes.

Also here at IPP, ACG?---Yes.

And just finally I'll show you 244, 245 and 246. And if you go to 245 do you see your signature on the withdrawal slip at NAB?---Yes.

And you signed - and is that your writing, the date and the amount?---Yes.

So you've signed the withdrawal, you signed for the withdrawal of seven and a half thousand dollars from the bank account ending in .- , - , . Is that right?---Yes.

And if you go to 244, please, you won't recognise this document, but it's a bank transaction record?---Yes.

10 And if you look under – you see it's got transaction date in typed words, 30 May?---Yes.

And just underneath that it's got a time 11.49?---Yes. Yes.

And that indicates according to the records the withdrawal occurred at that time on that date?---Yes.

So it appears from looking at those records that on 30 May you transferred from account .- , - , . - - -?---Mmm.

20 - - - seven and a half thousand dollars?---Yes.

You transferred it to account .- , - , .. Correct?---Yes.

And then on the same day at about 11.49am you withdrew that same amount of money?---Yes.

I tender those records.

30 THE COMMISSIONER: Well the, the bank – extract from the bank statement of Mr Diekman and Ms Newman and the bank account number being .- , - , . .- , - , ,. for the period 1 May, 2008 to 30 May, 2008 will be D33. The extract from the bank statement of Mr Diekman and the account number being .- , - , . .- , - , , for the period 8 April, 2008 to 30 September, 2008, with the savings history attached will be Exhibit D33. And what did you say this document was Mr Strickland? The third one.

40 **#EXHIBIT D33 – COPY OF HOME LOAN ACCOUNT BALANCE SUMMARY FOR PERIOD 1 MAY 2008 – 30 MAY 2008 IN THE NAME OF MR DIEKMAN AND MS NEWMAN**

#EXHIBIT D34 - COPY OF ACCOUNT BALANCE SUMMARY IN FOR THE PERIOD 8 APRIL 2008-30 SEPTEMBER 2008

MR STRICKLAND: It's a withdrawal slip.

THE COMMISSIONER: A withdrawal slip.

MR STRICKLAND: Together with a bank record in relation to that withdrawal.

THE COMMISSIONER: The withdrawal slip and the bank record relating to that withdrawal, dealing with 30 May, 2008, will be Exhibit D35.

10

#EXHIBIT D35 - BUNDLE OF 3 DOCUMENTS COMMENCING WITH INTERNET BANKING SUMMARY SHOWING TRANSFER OF \$7500.00

THE COMMISSIONER: The second bank statement I incorrectly said was D33, it should be D34. Yes, Mr Naylor?

20 MR NAYLOR: Commissioner, might there be non-publication orders, please, in relation to both D33 and D34 on Mr Diekman's home address?

THE COMMISSIONER: Yes. There is a an suppression order granted in relation to Mr Diekman's home address and the bank account number on the three Exhibits.

A SUPPRESSION ORDER GRANTED IN RELATION TO MR DIEKMAN'S AND MS NEWMAN'S HOME ADDRESS AND THE BANK ACCOUNT NUMBER ON THE THREE EXHIBITS

30

MR NAYLOR: Yes, thank you, Commissioner.

MR DUNNE: Ms Newman's also?

THE COMMISSIONER: Yes, the same order applies to Ms Newman, Mr Dunne. Yes, thank you.

40 MR STRICKLAND: So I take it that when you did the Internet bank transfer, you were the person that typed in in the relevant reference space IPP, ACG. Is that correct?---I assume so, yes.

Did anyone else, when you say you assume so, could anyone else have- - - ?---No.

- - -transferred that money from one bank account to another and then withdrawn in?---No, I obviously did that, yes.

And why do you describe the transfer as IPP, ACG?---I can't recall.

You can't recall?---No.

THE COMMISSIONER: What does ACG stand for?---(NO AUDIBLE REPLY)

What does ACG stand for?---On, I presume it's ACG we were talking about before.

10

You mean the company?---Yes.

So it means the consulting, it means the consulting firm, IPP, IPP Consulting I think it's called, is it?---Yes.

And ACG?---Yes.

You were intending to denote that that payment had something to do with those two entities?---Oh, it would have been something to trigger my mind, yes.

20

MR STRICKLAND: If you relate that back to the earlier email that I showed you before lunch- - -?---Mmm.

- - -that's the one on 3 March- - -?---Mmm.

- - -where you refer to the need to apply \$15,000 cash to Tony Grubisic and that they were, that they, that is the IPP consultant and Tony Grubisic- - -? ---Mmm.

30

- - -were to split the \$15,000, \$5,000 per site and spit it amongst themselves, do you remember that, that email?---Yes.

Half of 15 is seven and a half. Correct?---Yes.

And that matches, doesn't it, the seven and a half to the IPP consultant matches the bank transfer on 30 May which you labelled IPP, ACG. Correct?---Well, it's 50% of, yes.

40

Yeah. So doesn't that, the bank, you have referred or you have stated in your bank transfer that the transfer of seven and a half thousand dollars, that relates to a payment that you were intending to make to the IPP consultant, doesn't it?---Oh, look, I can't recall. As I said, I'll go back through my records and see what I can come up with.

Well, forgetting going back through your records- - -?---Mmm, yes.

- - -what other explanation is there- - -?---I haven't got another explanation.

You don't?---Yeah.

And you've said before lunch that there would be no legitimate reason, there would be no legitimate reason for Kings to pay money to the IPP consultant in relation to the DOH job?---I have not paid IPP consultants.

No, that's not my question. You've said before lunch that there would be no legitimate reason to do so?---That's correct.

10

And you agree, you still- -?---Yes.

- - -say that?---Yes.

THE COMMISSIONER: And ACG too, I take it?---Yes.

MR STRICKLAND: Could the witness please be shown Poller 162, 163, the email dated 30 May, 2008. I beg your pardon, it's Poller 115 and 116. Thank you. 116 is it the end of the emails, so I'll just show 115. Now, this is an email that you have written to Mr Roche. Correct?---Yes.

20

Dated 30 May at 2.45pm?---Yes.

And it's - and you've headed it "Marketing budget"?---Yes.

I'll just take - I'll go through all of it but let me just take you first to the second line?---Mmm.

You've said to Mr Roche on the same day as you've withdrawn the seven and a half thousand dollars marked IPP ACG - - -?---Mmm.

30

- - - "I also paid 7.5 dollars cash to the consultant via ACG for the DOH jobs". Correct?---Yes.

Now that - I remind you that the withdrawal, the bank record had the withdrawal on that date?---Yes.

At 11.49am?---Yes.

40 Some three hours before you've written this email?---Yes.

Now, I thought you said before lunch that you had not told anyone at Kings that you'd paid seven and a half thousand dollars to an IPP consultant?---I haven't.

But that's exactly what you've said to Mr Roche?---I have not paid IPP Consulting.

No, but what I, what I asked you before lunch is whether you told anyone at Kings that you had?---Oh, well, I said I couldn't recall.

No, you said you hadn't?---Well, I haven't.

But, this is in black and white - - -?---Yes, and I have not paid - - -

10 Let me finish the question, in black and white you have said in an email to Mr Roche that you paid 7.5 dollars cash, that refers to seven and a half thousand, doesn't it?---Yes.

To the consultant via ACG for the DOH job?---Yes.

Jobs. And indeed you had withdrawn seven and a half thousand dollars which you had marked in your internet transfers IC - - -?---Yes.

As IPP ACG?---Yes.

20 Well, are you saying that that statement that I have read out does not represent the truth?---Yes.

So it's a lie is it?---No, I have not paid IPP Consulting.

Well, if it doesn't - if the statement "I also paid 7.5 dollars - - -?---Yes.

- - - cash - - -?---Yes.

30 - - - to the consultant via ACG for the DOH jobs" does not represent the truth - - -?---Yes.

- - - is it a lie, that statement?---Yes, yes.

So you've lied to Mr Roche?---Yes.

And why did you lie to Mr Roche?---I can't recall.

THE COMMISSIONER: What I don't understand is why you put the notation that you did on your bank statement?---Yes.

40 Because no one would see that except you?---Yes.

So why did you put it there?---Oh, no, I wouldn't know what I was thinking at the time.

But you would only put it there if you were transferring \$7,500 to IPP and to ACG wouldn't you?---Well, I cashed the cheque didn't I? Was it a cash, cash - well, sorry, I withdrew the cash.

Yes?---I didn't transfer any money to those guys and I did not pay IPP.

Well, the money was for them?---No, it wasn't.

Even though you made a private note for yourself that it was?---Yes.

MR STRICKLAND: You withdrew the seven and a half thousand dollars -
- -?---Yes.

10 - - - from Maroubra Junction bank, is that correct?---I'm, I'm - is that what
it says on the - - -

That's right, that's correct, it does?---Yes, okay.

Do you accept that?---I accept that.

And is that a bank that's near your - it's not near where you lived is it?
---Nearer where I work.

20 It's near where you work is it?---Yes.

You have one of your offices at - you have your office near Maroubra
Junction?---Have an office at Zetland.

All right. Okay. And did you give the seven and half thousand dollars to
anyone?---I can't recall but I definitely did not give it to IPP.

THE COMMISSIONER: Did you give it to ACG?---I don't recall. I was
doing some work at the time but I don't recall giving him the money.

30 Did you give any part to IPP?---No, absolutely not.

Did you get any part to ACG?---Absolutely - well, I can't recall with ACG
'cause we were doing some work.

Did you give any part to anyone to give to IPP?---No.

Did you give any part to anyone to give to ACG?---No.

40 MR STRICKLAND: You have written in that email "We need to credit all
ACG invoices"?---Yes.

And did you mean by that that you wanted to write those invoices off?
---Yes.

And why did you want to do that?---We had a problem with the job that he
wasn't happy with from memory.

And how much were the invoices worth?---I can't recall.

And that was the job you referred to before lunch?---Yes, that's correct.

Now you've also written in that bank account, sorry in that email, "my bank account is getting empty"?---Yes.

Was that part true?---I always tell them it's empty.

10

Right. Well I showed you – did you have a chance to see your bank statement that I showed you?---Yes.

And there was some – I think after the, after the withdrawal of seven and a half thousand dollars there was some \$3,000 left. Is that right?---That's what it says, yeah.

You then say, "I have paid for a number of opportunities out of my account in the last year"?---Ah hmm.

20

And then you refer to a list of names and some dollar figures. Do you see that?---Yes.

What were you referring to when you said, "I have paid for a number of opportunities"?---I needed cash.

I beg your pardon?---I was wanting cash.

THE COMMISSIONER: I beg your pardon?---I was wanting cash.

30

MR STRICKLAND: Well so just – so are you saying that also was a lie? ---Well I paid – this is, this is obviously the motorbike and I wanted the company to pay it back. And I don't think they ever did.

Well when you say the motorbike, unfortunately Mr Diekman, the motorbike was in 2009 not in 2008?---Oh, okay.

So it doesn't refer to that does it?---No.

40

Well what, what does – see by that statement you're referring to the Robert H \$10,000 weren't you?---Well - - -

By saying the motorbike you wanted - - -?---Yes.

- - - you wanted the motorbike paid back. What you're referring to there was I paid Robert H, I paid \$10,000 - - -?---Yes.

- - - you say for the motorbike and I wanted that back?---Yes.

But that cannot possibly be so because that was in May – that was in 2009?
---Right.

So what does the \$10,000 Robert H refer to?---I can't recall.

All right. What is the two lots of \$2,500 refer to?---I can't - unless it was the first part of – when he was cleaning the boat, I don't know.

10 I beg your pardon?---I don't know.

Well, well I've shown you today the two bank withdrawals you made for 27 July, on 27 July, 2007 and 9 August, 2007?---Yes.

But one was for \$2,500 and one was for \$2,490. And they were paid to Robert Huskic's account. Correct?---Yes.

20 So those, leaving aside \$10, those two entries are accurate to that extent aren't they that you did pay \$5,000 to Robert Huskic in two lots of \$2,500. Correct? That part of the entry is true?---You could read it like that, yes.

Well how else would you read it?---I don't recall, I don't recall what I did with the money or, yeah.

Look we went through it before lunch?---Yes.

And I asked you a number of questions about the \$2,500?---Yes.

30 And you say that – you admitted that you transferred - - -?---Yes.

- - - those two lots of \$2,500 to Robert Huskic's account?---Yes.

So all I'm saying to you is that those two lots of \$2,500 are true aren't they? You did pay from your own bank account - - -?---I don't know whether that's – I don't know.

Well you did pay from your own bank account two lots of \$2,500 to Robert Huskic. Do you agree with that?---Yes.

40 Right. In what way is that an opportunity? In what way is that an opportunity?---Getting my boat ready for racing, ready for networking. THE COMMISSIONER: That's not an opportunity?---Yes, it is. Sorry, it is. I'll back that all the way. I take that many clients out on the boat.

MR STRICKLAND: And so that's - you're a 100 per cent confident that's what you refer to there?---Yes. Yes.

So what you're saying to Mr Roche is, I paid \$5,000 to Robert Huskic?

---Yes.

That's an opportunity for the company because he cleaned and maintained your boat?---Yes. Yes.

And you want that paid back. That's what you meant?---Well I asked. I don't think – I bet you he didn't pay it back.

Well, well you asked because you wanted?---Yes.

10

So you wanted that to be paid back?---Yes.

Because that was an opportunity for the company. Correct?---(NO AUDIBLE REPLY)

I'm using your words, opportunity?---It was an opportunity for the company
- - -

Yeah---?- - to use my boat as a networking tool.

20

THE COMMISSIONER: What, for, for, to pay Huskic- - -?---No.

- - -\$5,000 to clean it every, every- - -?---It's an opportunity for- - -

Can I just finish? Are you saying that the \$5,000 that you paid Huskic you say for cleaning the boat is an opportunity for the company?---Well, it's just part of maintaining the boat and I used the boat every Thursday night to take clients out and take staff out for team building and it was a consistent thing I'd been doing for the last seven or eight years, probably longer.

30

MR STRICKLAND: So I want to take you back, I'm now going to ask you about the entry of \$10,000 to Robert H?---Yes.

I just want to take you back, please, to some documents that I showed you yesterday?---Yes.

And I'll just do it step by step. First, can you first show D3. So that shows, I went through this yesterday but I just want to go through and show you some of the times. Could Your Honour excuse me just for a moment. So at,
40 you made a, you made a phone call on 31 May at 4.19pm. Is that right?
---Yes.

And that was to Mr Huskic?---Yes.

And the next day at 1.41pm you made another phone call to Mr Huskic- - -?
---Yes.

- - -that went for 20 seconds?---Yes.

Now, could the, could the witness please be shown Exhibit D, I think it's 4. Could I just have that first, please? I just wonder if I can just show you this?---So he's called me, I haven't called him.

I beg your pardon, quite right, he's called you?---Yeah.

Right. And then the next document I'm showing you is the bank record of the, of the withdrawal from your bank account of \$10,000?---Yes.

10

And that's at 2.22pm on 1 June?---Yes.

Okay. Commissioner, I understand that that document hasn't been tendered. I'm not sure about that.

THE COMMISSIONER: Well, in case it hasn't been tendered it will be, I will mark it D33 and that document is what?

20

MR STRICKLAND: That is a bank- - -

THE COMMISSIONER: It is D33 I think, sorry, D36, I beg your pardon, it's D36 and it is?

MR STRICKLAND: That is a bank record of a withdrawal \$10,000 from Mr Diekman on 1 June.

THE COMMISSIONER: All right. D36 is the bank record which Mr Strickland has now described.

30

#EXHIBIT D36 - ONLINE BANKING SYSTEM LISTING DATED 1/6/2007

MR STRICKLAND: I can show you another document on the, which is Financial 227. I'll just have a copy.

THE COMMISSIONER: That's a further bank record, is it?

40

MR STRICKLAND: That's, that's a bank record of Mr Huskic's account.

THE COMMISSIONER: A bank, well, make that D37, the bank record of Mr Huskic for 1 June, 2007.

#EXHIBIT D37 - SUMMARY FOR WITHDRAWAL OF \$9,500.00 ON 1/6/2007

MR STRICKLAND: Now, that, if you just, have you got that record in front of you?---Yes.

And if you accept that this is a bank record of Mr Huskic's account and I showed you the statement yesterday, and that shows - you'll see there there's a date, there's a - it's got branch 2405, then log time, you see that, 1/06/2007, do you see that?---Yes.

10 And then next to that appear a series of numbers, 150848003 and just assume that there will be some evidence that that refers to the actual time? ---Yes.

And so that - at 3.08pm that 9,500 was deposited by Mr Huskic?---Yes.

So just to put the times to you 1.41pm, this is all on 1 June, 1.41pm Mr Huskic calls you. 2.22pm you withdraw \$10,000, 3.08pm he deposits in his bank account nine and a half thousand dollars?---Yes.

20 And the \$10,000 you withdrew - - -?---Yes.

- - - I want to suggest was in \$50 denominations?---Oh, I wouldn't have a clue.

Well, do you, do you, do you disagree with that?---You can suggest it, I, I don't recall.

If you just look at the - if you look at the - if the witness could be shown 225, financial 225 that I think is D3.

30 THE COMMISSIONER: D3 are the telephone records.

MR STRICKLAND: Can I have 228? Can you see there that shows - - -

THE COMMISSIONER: The 10,000, it's D4 isn't it? D4.

MR STRICKLAND: D4?---Yes, on the 1st of the 7th.

40 That's right, that's, that's your date, the 1st of the 7th and I've suggested to you that that is in fact a - - -

THE COMMISSIONER: Error.

MR STRICKLAND: - - - an incorrect date that is in fact the 1st of the 6th, but in any event that shows you've withdrawn that \$10,000 in \$50 notes, correct?---Yes.

Now, can I - I'm sorry for not having known which has been tendered, I apologise for that.

THE COMMISSIONER: No, no, no, that's - it's difficult.

MR STRICKLAND: In D4 do we have finance, do we have 228? I think I only have one copy of this so I apologise but let me just show you 228. Now that is a bank record - - -?---Yes.

10 - - - of the nine and a half thousand dollars - - -?---Yes.

- - - deposited by Mr Huskic - well, by someone into Mr Huskic's bank account and it shows that the notes that he's deposited those - that nine and half thousand dollars in \$50 denominations?---Yes.

Did you give him \$10,000 cash in \$50 notes?---Not, not that I can recall, no.

If you had done so you would recall it, wouldn't you?---Well, I can't recall it so - - -

20

Yeah, I know you've said that - - -?---Yeah.

- - - but if you - - -?---If I had done so I can't recall it, I'm just saying I, I can't recall giving him - - -

Well, you see, we went over, we've been exhaustive about this?---Mmm.

\$7,000 that you've transferred - - -?---Yes.

30 - - - to the Vespa - - -?---Yes.

- - - whoever makes Vespa scooters?---Yes.

Two lots of two and a half thousand dollars directed into his bank account? ---Yes, yeah.

Now, this is another matter?---Yes.

\$10,000 cash in \$50 notes?---Yes.

40

You're saying you can't recall?---No.

But if you had done it - - -?---Yes.

- - - you would recall it?---I don't know. I have, well, how can I answer that question?

You can't answer it?---Well, how could I answer it?

Well, because - - -?---Because if I had done it and I can't recall, if I haven't done it I can't, I can't recall.

Is it your practice to give significant amounts of cash- - -?---No.

- - -to people in the position of Mr Huskic?---No.

10 Well, if it's not your practice and then it's something that you would remember if you had done it on a, on a particular occasion?---Well, as I said, I don't recall.

I tender that document Financial 229.

THE COMMISSIONER: Yes. The financial records, the financial record, is that Mr Huskic's bank, from Mr Huskic's bank?

20 MR STRICKLAND: Of Mr Huskic's bank, that's correct.

THE COMMISSIONER: Which is marked 229 on the right-hand side is Exhibit D38.

#EXHIBIT D38 - SUMMARY SHOWING DENOMINATION OF \$50.00 NOTES USED FOR WITHDRAWAL OF \$9,500.00 ON 1/06/2007

30 MR STRICKLAND: I think, has 228 also been tendered?

THE COMMISSIONER: Yeah, no.

MR NAYLOR: Commissioner, I apologise for interrupting, I do not have 229. I'm a bit confused.

40 THE COMMISSIONER: 229 no one has except, I'm sorry, the last exhibit which is D38 is the one which was shown to Mr Diekman of which there is only one copy, so I also don't have it, but we will be getting it.

MR STRICKLAND: I think it's, it's marked number 227.

THE COMMISSIONER: 228.

MR STRICKLAND: Afterwards I'll make sure they're properly numbered.

THE COMMISSIONER: Can we just try and get, no, no, no, I have got, D36 was Mr Diekman's bank record of 1 June, 2007, and D37 was Mr

Huskic's bank record of 1 June. Now, I do not, D38 has gone, has been dealt with without me having a copy and I assume that that, and that is the one document of which we only have one copy and that is a bank record relating to Mr Huskic?

MR STRICKLAND: That's right.

THE COMMISSIONER: I think that shows the deposit of a sum of money, I think \$9,500, in \$50 notes?

10

MR STRICKLAND: That's correct.

THE COMMISSIONER: Now, that I have noted is D38. And is there another document that was tendered?

MR STRICKLAND: No.

THE COMMISSIONER: So we are up to D38. The next Exhibit will be D39.

20

MR STRICKLAND: Thank you. I'll make sure by the end of today that's clarified and any party that needs to see it will see it.

THE COMMISSIONER: Yes, that's fine. But I mean I think that that's correct now.

MR STRICKLAND: I think that's right.

MR LLOYD: Mr Commissioner, can I just ask what pages 226 and 227 are?

30

THE COMMISSIONER: What pages 226 and 227 are? Well- - -

MR STRICKLAND: I can assist there. 226 is a bank record- - -

MR LLOYD: I know what they are but what Exhibit numbers.

THE COMMISSIONER: Oh, I see. 226 is 36 and 227 is 38, sorry, 37, 227, 37 and 226, 36.

40

MR LLOYD: I thought the email, and what's the marketing budget email?

MR STRICKLAND: I haven't tendered that yet.

MR LLOYD: Oh, okay, okay.

THE COMMISSIONER: Sorry about that.

MR STRICKLAND: I'm grateful to my, I'm grateful to my friend. I tender that 30 May email.

THE COMMISSIONER: Yes. The, sorry, the, yes, the email of 30 May?

MR STRICKLAND: That's correct, I tender that.

THE COMMISSIONER: Yes. The email of 30 May from Mr Diekman to Mr Roche is Exhibit 39.

10

**#EXHIBIT 39 - EMAIL FROM MR DIEKMAN TO MR ROCHE
DATED 30 MAY 2008**

MR STRICKLAND: Thank you.

THE COMMISSIONER: D39.

20 MR STRICKLAND: So you've still got that email in front of you, the 30 May email?---Yeah.

Now, the next entry I want to ask you about, or I want to suggest to you that the \$10,000 that you've referred to in that email refers to the \$10,000 that you withdrew on 1 June, 2007. Do you agree with that?---I'm sorry, can you repeat that, sorry?

I've just been through with you the withdrawal of \$10,000 from your account?---Yes. Yes.

30

And I want to suggest – and I've also taken you to bank records of Mr Huskic - - -?---Yes.

- - - which show that within an hour of you having withdrawn - - -?---Yes.

- - - that amount there was a deposit of nine and a half thousand dollars in the same denominations into his account?---Yes.

40 And I want to suggest to you that that is the \$10,000 that is referred to in that email of 30 May. Do you agree with that?---No, I don't.

And in fact what you were wanting to do from Mr Roche was to get – because you paid – there's no doubt the \$10,000 was paid out of your personal account wasn't it, the one I've just shown you?---I withdrew \$10,000, yes.

I beg your pardon?---I withdrew \$10,000, yes.

But from your person account?---Yes.

And what I'm suggesting is that that \$10,000 withdrawn from your personal account you wanted the company to pay you back?---Yes.

See I want to suggest that \$10,000 was paid – was withdrawn from your account in \$50 notes and given to Mr Huskic in \$50 notes?---I don't agree with that.

10 And that was – do you have any other explanation then for the \$10,000 you've recorded next to Robert H's name in that email?---Not that I can recall, no.

It's a – do you agree with this, it's an extraordinary series of coincidences that you withdraw \$10,000 in \$50 notes on 1 June - - -?---Yes.

- - - following a telephone conversation from him - - -?---Yes.

20 - - - that within an hour he deposits nine and a half thousand dollars also in \$50 notes and then on 30 May, 2008 you record that you have paid Robert H \$10,000. When you put those together that's an extraordinary set of coincidences isn't it?---Yes.

And you can't explain it?---No.

One obvious explanation is that that \$10,000 was paid by you as a bribe for favours or information or assistance given to you by Mr Huskic in relation to, in relation to DOH contracts, AHS contracts. That's an explanation isn't it?---I don't agree with it. It's an explanation but I don't agree with it.

30 What about the next entry, Dan P \$2,000 AMP job. That Dan P relates to Dan Paul. Is that correct?---I'm not a 100 per cent but - - -

Is there any other Dan P that you have paid \$2,000 to?---Not that I'm aware of.

THE COMMISSIONER: Do you know any other Dan P?---Not off the top of my head, no.

40 MR STRICKLAND: What does the, what does the reference to AMP job mean?---A-M-P or AMP, I don't know.

You've got no idea what that reference is to?---No.

Well doesn't that suggest – I'll withdraw suggest. That says doesn't it that you have paid, as an opportunity, \$2,000 to Dan P for the AMP job. That's what it says doesn't it?---It says that. I don't recall paying Dan P \$2,000.

What about the next entry, Cam C, \$5,000 four door cont. Cam C refers to Cameron Creary. Correct?---No.

It doesn't?---No. That's my mate, Cameron.

Okay. And what's his surname?---McDonald.

Well McDonald doesn't - - -?---And he lives in - - -

10 - - - being begin with a C?---I know but his nickname, we call him Cam C. He lives in Santa Cruz.

I see?---Cruzy Cameron. He's a laid back guy, has a place in Guatemala and at the time he was doing work for us.

I see. And what does four door cont stand for?---Whatever he was doing probably, doing some work for us.

Well - - -

20

THE COMMISSIONER: Four door cont?---I don't know. I don't know.

Doesn't that relate to a car?---Continental, it could do.

MR STRICKLAND: Well you see prior to this email you say you sold Mr Creary a car. Correct?---Yes.

Are you sure that isn't a reference to the, the car that you say you had sold Mr Creary?---No.

30

What was the \$5,000 you paid- - -

THE COMMISSIONER: Sorry, sorry, I beg your pardon, Mr Strickland.

MR STRICKLAND: Four-door cont, doesn't that refer to four-door control?---I, I don't know, four-door cont, I don't know.

Well, just what is the job you paid, if it was for the payment, you say it's a payment to Cameron McDonald?---Well, that's all I can think of, yes.

40

Right. Well, what, what exactly did the payment relate to?---I can't recall.

THE COMMISSIONER: Why is that an opportunity?---(No Audible Reply)

Why is a payment to your friend, McDonald, an opportunity?---It may not have been an opportunity, it may, it may have been for some work he had done.

But you have said- - -?---Well- - -

- - -this comes under opportunity?---Yeah.

Is this another lie you told Mr Roche?---No, it was probably more so, look, I don't think he gave me the money and on the bottom you can see it's, "You can buy me a pool."

10 You're not answering my question.

MR STRICKLAND: What about the next entry, "Dan P, \$8,000 Vegas sponsor?"---Yes.

What does that relate to?---I, I assume I was going to go to Vegas and I didn't go on, in, on 2008.

Yes. But you see it says- - -?---If we were going to, if we were going to sponsor him I think I would have- - -

20

I missed that?---I said, if we were going to sponsor someone, he sends a list of people that are going to, you know, want, want sponsors, we would have paid via, yeah, got a proper invoice and- - -

THE COMMISSIONER: That's not what it says, this says, "I have paid- - -?---Yes.

- - -for a number of opportunities- - -?---Yes.

30 - - -out of my account in the last year and that includes Dan P, \$8,000, Vegas sponsor." So?---I don't recall it. Maybe, maybe, maybe I did pay \$8,000 to sponsor someone but I don't, I don't recall it.

But why, you paid, this says you paid \$8,000 to Dan P?---Yes.

Did you?---I don't recall. Don't recall paying him \$8,000.

Well- - -?---And I, and I do recall not going that year.

40 I'm not, it doesn't relate to that year?---Okay.

It relates to the past.

MR STRICKLAND: Do you recall spending from your own account - - -?---Yes.

- - -or from your own money, \$8,000- - -?---Yes.

--in relation to someone that Dan Paul sponsored to go to the international conference in Las Vegas?---I don't recall, no.

Well, that's, that's precisely what that- -?---Yes.

--line in the email says, doesn't it?---Yes.

And you did, you do, Kings does sponsor people- -?---Yes.

10 --to go to Las Vegas?---Yes.

Correct?---Well, we, we take guests or we take our staff.

Yeah. You sponsor them, don't you, to use, to use your word in that email?
---Yes.

So it is probable, isn't it, that you have spent from your own account, as stated in that email, \$8,000 in relation to Dan Paul sponsoring someone?
---May have, but I don't recall it.

20

Well, it's not just may, it's probable isn't it, given that you've written it?
---No, I said I, I- - -

And given that that was your practice?---I don't recall it.

I understand you say you don't recall it, but I'm asking you- -?---It's, it's probable.

30 You accept that?---I accept that it could be but it, I just don't recall it and as I said, I didn't go in the end and I- - -

I just want to try and get to the kind of commonsense and the reality of the situation?---Ah hmm.

You see, put yourself in 30 May, 2008?---Mmm.

You've written something- -?---Yes.

40 --that you have paid, and you've written something to your partner- -?
---Yes.

--the purpose of which is for you to be repaid some money by the company?---Yes.

That's the purpose of this email. And you have written that you have paid that sum of money, \$8,000, to Dan Paul in relation to sponsoring someone to Las Vegas. Now, back then in May 2008 you would have known whether that was true or not, wouldn't you?---No.

Well, I beg your pardon?---No, I just, I don't recall it so maybe- - -

That's not my question. Back in May- -?---Yes.

- - -back when you wrote that email- -?---Ah hmm.

- - -you must have known whether the statement you were writing then was true or false. Correct?---Yes.

10

And what I want to suggest to you is that when you wrote it you knew it was true. Correct?---I don't recall that.

Let me ask the next line, “ \$10,000 Caterair et cetera”?---Mmm.

Who's ?---I don't know.

THE COMMISSIONER: Really, Mr Diekman, just tell us who is please?---I don't know.

20

MR STRICKLAND: But you paid this person 10 - according to this anyway - -?---I don't know whether I've paid him, it's just that I don't recall it, Caterair.

THE COMMISSIONER: Well, do you know anybody who's initials are ?---Not off the top of my head, no.

MR STRICKLAND: What about ?---Oh, yeah,

30

THE COMMISSIONER: Under the ICAC Act it is contempt of the Commission to refuse to answer but it is also contempt of the Commission to say I don't know when you do know. Now, I want you to - and that, and if you are found guilty of contempt there are serious penalties that can be imposed?---Yes.

Now, I'd like you to think again about who is. Who is ?---It could, could be

40

. And who is ?---A guy in the security industry.

And what does he do? Is he a consultant?---No, he's a security manager.

For who?---Well, at the moment .

For ?---Yes.

And does Kings do work for ?---Yes.

And is a person who places contracts on behalf of _____ with King?---I'm not, look, I have nothing to do with that client.

Just answer the question please?---Yes.

Yes. Is your answer yes?---Oh, I'm not sure.

You're not sure?---I don't know.

10

Yes, Mr Strickland.

MR STRICKLAND: Well, is there any other person that would match the description _____ that you can think of?---Not that I can think of, no.

So did you do work for _____ in May 2008 or before May 2008? ---No, I wouldn't know, I don't know.

20

What does Caterair refer to?---A catering company that we do work for.

And what does _____ have to do with that catering company?---I don't know, I can't recall what he - - -

I beg your pardon?---I can't recall, I just can't recall what it is, Caterair, catering.

So did Kings Security - - -?---We do work at the catering company, yes.

30

Called Caterair?---I think, yes.

And you did back in May 2008?---Oh, I'm not sure.

And in relation to _____ what was the, what was the work you did for _____ ?---Ah - - -

That is back in - - -?---I don't know whether - - -

40

- - - May 2008 or before that date?---I don't think we were doing work at _____ in 2008.

Okay. So - - -?---I don't know, I don't, I don't recall doing the work. We may have but I just - - -

So, so you have no explanation now as to what the \$10,000 - - -?---No, I can't - - -

- - - you paid for under the heading “ \$10,000 Caterair et cetera”.
You’ve got no knowledge at all, do you?---I can’t recall any, no. He may
have been an independent, he was an independent consultant for a while.

When you say he who do you mean by he?---

Yes?---I believe, I know he was working for an IT company, no, look, I
can’t recall.

10 THE COMMISSIONER: So he was another consultant?---Well, he was an,
he was working for an IT company so - - -

MR STRICKLAND: And which, what company was that?---(not
transcribable)

I beg your pardon?---I can’t, don’t know the name.

The next entry is IPP, seven and a half thousand DOH, that refers to the - - -
?---Yes.

20

- - - entry in the second line?---Yes.

And so what you’ve stated there is that you have paid from your own
account forty seven and a half thousand dollars to date - - -?---Yes.

- - - for a number of opportunities and you’ve listed those?---Yes.

30 That’s - that email is all about you telling Mr Roche that you have paid forty
seven and a half thousand dollars to various people who have done favours
for the Kings, King Security and you wanted that money back, that’s what
it’s about, isn’t it?---No, no.

Well what do you say that that email is about?---I need to get some time to
think about it and go through, through the records.

Well you wrote the email, you have been the head of this company for a
long time?---Yes.

40 I’m asking you what do you say the email is about?---It’s about me getting
cash out of the business.

Yes, for, for what?---To spend.

Cash out of the business because you have spent cash from your own
account, forty seven and a half thousand dollars?---Yes.

That’s what it says?---Yes.

And that was true wasn't it, you had spent out of your own account forty seven and a half thousand dollars?---I can't recall.

When you say you can't recall - - -?---Well I can't recall. Show me that, I can't recall spending \$47,500.

There's absolutely no doubt because I've gone through some of the accounts that certainly some of those entries are completely accurate aren't they?
---Some of these entries?

10

THE COMMISSIONER: Yes?---Sorry?

Yes?---No, I'm not saying yes.

Sorry, some of these, some of these entries are accurate aren't they? At least some?---I have to go back through, I don't recall - - -

We've show you, we've shown, you've been shown the entries?---Well I do not recall just an email written in 2008 - - -

20

Well you haven't been shown just an email written in 2008, you've been shown your banking records?---Yes.

So, all right. Yes, Mr Strickland.

MR STRICKLAND: You can't even admit can you that some of the entries, some of the entries in this email are accurate?---I, I'd have to go back and get my head around it.

30

THE COMMISSIONER: The answer I think is no.

MR STRICKLAND: Thank you. Excuse me. Do you recall – I think you said yesterday that you arranged for the installation of an alarm system into Robert Huskic's home. Is that right?---Oh, I didn't arrange it, no.

Well - - -?---I don't think he had - - -

I beg your pardon?---I've never arranged to put an alarm in his house.

40

Okay. To your knowledge did Kings do any security type work for Mr Huskic's personal house?---I believe we done a job for his uncle or cousin or something.

Okay. At whose request?---I don't know.

I beg your pardon?---I don't know.

And when you say we, did you know about it yourself?---I think I heard a whisper that were doing an alarm. But it was only recently I heard that. Anyway, I don't recall it.

THE COMMISSIONER: You heard a whisper recently?---Well just saying that we did an alarm or he was complaining because of something.

MR STRICKLAND: Who did you hear the whisper from recently?
---Someone was saying that he was, he was complaining about the alarm or
10 it wasn't working or something like that.

Just let me show you a couple of documents. I just want to show you a series of documents, AHS 95 to 103. Before, Mr Diekman, before you read them can I just ask you a couple of questions? When you – if you – do you recall providing any kind of security alarm system to Mr Huskic's relative?
---I remember something about him wanting an alarm system.

And did you do that as a favour?---No.

20 No. Okay. If you just look at first – well you say you didn't do it as a favour, did you do it at discount?---Probably cost price.

Right. Well, isn't that a favour, to do something at cost price?---Oh, if you want to call it a favour or- - -

I'm sorry?---If you want to call it a favour I suppose, I gave him a discount, yeah.

30 Do you call, do you call it a favour, do you call that a favour?---Well, he'd been working on my boat and so I gave him a price for a, that's if I, like, I can't even recall that, I don't, can't really recall much about that one, I just
- - -

Well, let's forget about that. If you give, if you provide a service- - -?
---Mmm.

- - -for someone- - -?---Mmm.

40 - - -at cost price, that means you're not making any profit out of it. Is that right? Is that what cost price means?---Yeah.

And would you regard that as a favour?---Yes.

So if you just look at, so and you say, why did you want to provide a favour to Mr Huskic?---(No Audible Reply)

Why did you want to provide a favour to Mr Huskic?---He was doing good work on my boat.

And that's the only reason?---Yeah.

It had nothing to do with the fact that he was also an employee of AHS who was involved in the contracts that Kings Security was doing?---Well, I'm putting it down to he was working on my boat.

I know that?---And I had a close relationship with him.

10 But I'm asking you it had nothing to do with the fact that he was also working full-time as an employee for AHS on the same contracts that Kings Security was involved in?---Well, it had something- - -

Do you agree with that or not?---It had something to do with the relationship.

20 Would you have done, would you have provided him with, or his relative with a favour if he wasn't working as an employee for AHS, working on the same contracts that Kings Security was working on?---And he was working on my boat, yeah, absolutely.

THE COMMISSIONER: Nothing else? The only reason why you provided him with a favour was that he was working on your boat?---That's correct.

Nothing else?---I knew him so he became a, became a friend.

Nothing else?---Well, I didn't really- - -

30 Or was there any other reason that you provided him a favour?---I didn't think at the time, he just asked for something and I- - -

You thought of no other reason at the time?---He became a close associate.

Is it correct that you- - -?---Yes, it's correct.

- - -thought of no other reason at the time?---That's correct.

He was working on your boat- - -?---Yeah.

40 - - -and he'd become a close friend?---Yes.

I see.

MR STRICKLAND: So just go to the bundle of documents and if you could just go to page number 96. So this is an email from Robert Huskic to yourself on 21 July, 2006. "Charlie, mate, best buddy, I need a quote to have an alarm system put into my cousin's house at Hornsby?"---Yes.

Then he describes what that is. And do you recall receiving that?---No, I don't recall that, no.

But you accept you received it?---I accept it, yeah.

Right. You go to the next page.

THE COMMISSIONER: 97?

10 MR STRICKLAND: 97, thank you. On 24 July you get a further email headed Alarm Quote. In fact I'm sorry there's a further two emails in relation to that same alarm quote. Do you accept you received those?
---Yes.

Okay. And then if you go to page 99, an email from yourself to Robert Huskic?---Yeah.

20 And do you accept that you send him a quote for an alarm system, is that right?---Yes.

And then on page 100 is the letter on 2 July to Robert's cousin. You didn't know his name. Is that right?---I don't recall.

And you've got "Mates' rates, et cetera, et cetera"?---Yeah.

And that was, and you've got, "Mates' rates, et cetera, et cetera" because you were giving Robert's cousin a discount?---Yes.

30 Okay. And on page 101 you refer to the, what equipment you are providing him?---Yes.

Total cost of \$300?---Yeah.

How much was the alarm system actually worth if it was to be installed by an ordinary, be installed for an ordinary customer?---Oh, depends on the house, depends on a lot of things.

40 THE COMMISSIONER: Well, this one?---I didn't go to the house, I didn't, only supplied it.

Just give us a ballpark figure?---Well, for that, for that material there I reckon it would be about \$300, probably a bit less.

MR STRICKLAND: That's not a discount at all, is it?---Sorry?

That's not a, that's not a mates' rate at all, is it?---No, that's what it probably would have cost us.

I see. If you go to 102. Now, could I just ask you this. Do you ever recall - if you go to page 103 there's an email from yourself to Peter Roche entitled "Robert H", do you see that?---Yes, yeah.

But it says, "I need a spectra kit with five detector hard wired, two internal screamer and four remote control, it's for our mate Robert Huskic (no charge)"?---Yeah.

10 "He will make sure our invoices for", and that's Northern Sydney Central Coast Area Health, that's what that, that initials stand for?---Yeah, mm.

"Would no longer get held up in the system"?---Yes.

THE COMMISSIONER: So that must have been another reason on top of your affection for this man is or affection for Robert Huskic as a friend? ---I think I, yeah, we've stayed pretty close because Northern Area's accounts were running six months, seven months old and we were having a lot of difficulties getting paid.

20 So this was another reason that you bore in mind for providing - - -?--- Giving him help.

- - - this system to Robert Huskic's cousin at a discount?---Oh, it could be, yes.

Just remembered it?---(No Audible Reply).

30 You have just now remembered the other reason have you?---Yeah, I, I, I'd totally forgotten about the whole, this whole alarm system.

MR STRICKLAND: I see. Well, having read those emails do you agree that your earlier evidence that you were providing mates rates for Robert's cousin because he worked on the boat was not true?---Well - - -

Do you accept that?---It was true, it was true, yes.

40 Well, what you've written to Mr Roche is the reason that you have done that is, is nothing to do with the boat but because he, Robert Huskic, made sure your invoices would no longer get held up in the system, that's what you've written?---Well, I was probably getting hounded all the time because Northern Area weren't paying their bills and I just said to him mate, maybe this will help.

So you in the face of evidence to the contrary you are extremely reluctant to admit that you did, you provided any benefit at all in return for favours provided by Mr Huskic?---If you want to give an alarm, if I gave an alarm system away at cost price and you call that a favour, well, you can call it a favour.

THE COMMISSIONER: But you agreed that it was a favour I thought?
---Hey?

You agreed that it was a favour?---Well, not to Northern Area, it was a favour, it was a favour because he was working on my boat.

MR STRICKLAND: Do you remember in - do you remember in 2008 that
10 there was further, a further security installation done on Robert Huskic's
home by, by Kings or at the behest of Kings Security?---I, I remember we
put some door locks or something.

All right. But that's separate, isn't it, from the Robert, cousin in providing
the Spectre system to Robert, Robert's cousin, isn't it?---Yeah.

Correct?---(No Audible Reply)

Is that correct?---Sorry, don't, ask the question again.

20 Yeah. You talked about door locks, is that right?---Yes, yeah.

But my question is that's a separate service - - -?---Yes.

- - - from the system you provided Robert's cousin?---Yes.

THE COMMISSIONER: Mr Strickland, I'm sorry to interrupt.

MR STRICKLAND: I'm sorry, oh, I didn't tender them, did I? It's, it's my
30 - - -

THE COMMISSIONER: Yes, all right. Well, exhibit - - -

MR STRICKLAND: I tender - - -

THE COMMISSIONER: You tender them.

MR STRICKLAND: I tender the bundle of emails from page 95 to 103.

40 THE COMMISSIONER: Exhibit D40 will be a bundle of emails marked
from page 95 to 103 relating to the installation of an alarm system at Robert
Huskic's home.

**#EXHIBIT D40 - BUNDLE OF EMAILS FROM 95-103 RELATING
TO THE INSTALLATION OF THE ALARM SYSTEM**

MR STRICKLAND: I want to suggest that you arranged for a company called Allsafe to install some security doors and windows at Robert Huskic's home in about 2008, do you agree or disagree with that?---I can't recall that, no.

Do you deny that happened?---I don't deny it but I don't, I've got no information on it.

10 Okay. Excuse me. I want to show you a statement from a Robert Moier AHS 385 to 387, together – at the same time I'll show you a quote AHS 134. I'll just take you to the statement first. Have you got the statement from Robert Moier?---Yes.

And just go to paragraph 7. There's a reference to Kings advising, Kings advising Allsafe that Robert, that they had a client Robert Huskic and that they were install, that Allsafe were to supply and install a SecureAview product to a door and four windows at unit 3 2-10 Hawkesbury Avenue, Dee Why?---Yes.

20 Does that ring a bell now?---Oh, vaguely.

All right. And that a quote for the work was completed and handed to Kings?---Yes.

And that Kings paid that quote?---Right.

Does that ring a bell?---No, not really. Yes, the job rings a bell. I remember him getting, we did something there.

30 Do you know if Robert, just go to paragraph 15 of that statement it says, on 15 October, sorry, on 1 October, 2008 - - -?---Yes.

- - - Kings paid the invoice?---Yes.

Does that ring a bell?---Allsafe was a subcontract company of ours that we did all our screens through them.

40 Okay. Do you know if Robert Huskic ever paid you, Kings for the job that they did - - -?---He could have paid me, like yeah.

You have no recollection?---No.

THE COMMISSIONER: And you didn't – did you do anything – if he did pay you I take it you would have told the accountant in your company and there would be a record of it?---Not if he paid me cash, probably not.

Cash, he would have paid you and you just kept it in your pocket and this would be another - - -?---Yes.

- - - another bit of taking away from your partner?---Yes.

MR STRICKLAND: But you don't recall one way or another whether he did pay you, whether he did pay you or Kings for that contract. Is that right or for that, for that security door and windows?---No, I can't recall.

10 You can't recall. I'll just show you AHS 134, which is a Kings Security customer job number 4-0-7-0-0. That's, that's a quotation for the supply and installation of security window grills and a door for the sum of \$2,195. Do you see that?---Yes.

Do you know if that was ever paid?---I don't know.

Okay?---He may have paid me. I don't, I don't recall.

#EXHIBIT D42 - COPY OF CUSTOMER JOB NO. 40700

20

SHORT ADJOURNMENT

[3.18pm]

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Can I show Mr Diekman a single page email, Poller 120, email from Charlie Diekman to Peter Roche dated 5 November, 2008. So you sent an email to Greg Poller copying to Peter Roche asking him to credit your account for two payments, correct?---Yes.

30

See, can I suggest that after the May 2008 email that I showed you Mr Poller created a directors equity account or something like that or a directors equity spreadsheet relating to payments that each of the two directors, yourself and Mr Roche, have made from your personal account relating to company matters, do you agree with that?---Oh, they could have, yeah.

No, I'm asking you, do you - - -?---I, oh - - -

40 Do you recall Mr Poller doing that?---I recall something going on with how they were going to pay dividends, yeah, I, I - - -

I'm not talking about dividends, I'm talking about creating a spreadsheet or an account for you and Mr Roche for personal expenses such as the ones you've referred to on the, in your 30 May email, do you recall that?---No, I don't.

Well, if you look at this email here it says, "Greg, please credit my account", what does, what are you referring to there? What account are you referring to?---I have no idea, credit my account.

You don't know?---No.

You don't know?---No.

10 THE COMMISSIONER: Now, you're a director of this company and an equal shareholder in it?---Yes.

You have no idea to what account this has been debited?---Well, if it's a spreadsheet or something it could be, I, I don't know how they run it in the finance section.

MR STRICKLAND: Well, you obviously knew when you wrote the email that you had what you described as an account - - -?---Yeah.

20 - - - for payments that you made to be credited to, correct?---Yes.

Can you tell us the nature of that account?---I, I, no, I can't, it might be loan account or it could be anything.

Well, whatever account it is is it the case that if you made personal payments or payments from your own personal account or you and your wife's personal account - - -?---Yes.

30 - - - then you wanted those payments credited to "my account" in the company?---Yes.

And the first entry refers to, I paid \$4,000 cash to CDPR?---Mmm.

Do you know what those initials stand for?---I assume me.

All right. And PR is Peter Roche?---I assume so.

All right. And what was -- do you know what that payment relates to?---I've got no idea.

40 The next is I paid \$10,000 cash for a consultant job. Do you know what that refers to?---No.

By the way in previous evidence you were saying that consultants, contractors, you used those two interchangeably?---Yes.

Is that correct?---Yes.

But on the 30 May email and the March '08 email, just to remind you on the 30 May email you referred to I paid seven and a half dollars cash to the consultant - - -?---Yes.

- - - via ACG?---Yes.

Now if, if you were referring to the consultant for the, the IPP consultant that was correct terminology wasn't it?---(not transcribable)

10 You referred in your email on 30 May to paying seven and a half dollars cash to the consultant?---Yes.

And you recall that the bank transfer documents you described is IPPACG? ---Yes.

That was you using the correct name for consultant, namely the IPP consultant?---Oh, I can't, I don't know why I would have put it down there.

20 What I'm suggesting is you seemed to know then when you wrote those, that email and when you made those entries that the consultant was someone from IPP who was in fact a consultant. In other words you used the correct word to describe him. Do you agree with that?---To describe them, a consultant?

IPP, Mr La Greca was a consultant at IPP?---Yes.

He performed consultancy work?---Yes.

30 And you described him as a consultant?---Yes.

And that's correct?---Yes.

And you knew that to be different from a contractor didn't you?---A contractor is different to a consultant, but I often use the same as mine.

But on that, on that occasion as least you used the correct terminology didn't you?---What was going through my head at the time I couldn't - - -

40 Just answer the question. It's a very simple one. On that occasion at least when you wrote that email you used the correct terminology. Do you agree with that?---I can't recall it.

You won't even accept that will you?---No.

Okay. I now want to ask you some questions - - -

THE COMMISSIONER: Are you tendering - - -

MR STRICKLAND: I'm sorry, I tender - - -

THE COMMISSIONER: Yes, Exhibit D43 is the email of 5 November, 2008 from Mr Diekman to Mr Roche.

**#EXHIBIT D43 - EMAIL FROM MR DIEKMAN TO MR ROCHE
DATED 5 NOVEMBER 2008**

10

MR STRICKLAND: I now want to ask you some questions about Daniel Paul. Has Daniel Paul ever helped Kings in preparing tenders?---I would be always questioning him about technology, whether there was a tender out at the same time, I couldn't recall. But he's never sat down and put a tender together for us, no.

Has he ever sat down and advised you how to prepare a tender?---Not me personally, no.

20 What about others at Kings?---I wouldn't know.

Have you ever asked, have you or anyone at Kings to your knowledge asked Mr Paul to assist Kings in how to prepare tenders? What to do when you're tendering for contracts?---I would, I would assume that we've asked for a tender debrief and where we've gone wrong and he would have told us this is wrong, this is wrong, that's after if you lose a tender, we've had a debrief. And maybe you could call that assisting in where we went wrong. That's what we normally do if we lose a tender we ask for a debrief.

30 And would that be the only occasion when you would ask Mr Paul to give you advice about how to tender?---I, I - - -

When you lost, when you'd lose a contract?---Well, I'd probably, I talked to him a lot and I talked to him a lot about technology and when (not transcribable) technology into that certain tender, you know, I, I, we talk a lot so - - -

THE COMMISSIONER: What, every day?---Yeah. Well, we were doing projects at the time and he's onsite and, yeah, we're talking.

40

MR STRICKLAND: When he was the consultant for a project- - -?---Yes.

- - -have you ever not, has Kings ever not been awarded a contract?
---Absolutely.

Yeah. Which ones?---Oh, Lend Lease, I think there would have been 20 tenders out.

Yeah?---We, we won three.

And, and Daniel Paul was the consultant there?---Yes.

When was that?---Oh, it's ongoing. We lost on six months ago.

With Daniel Paul as the consultant?---Yes, yes.

10 THE COMMISSIONER: Well, let's talk about the time before the ICAC inquiry started?---Yes.

MR STRICKLAND: What other, what other ones?---Oh, Westfields, we would have won, I think we won three really small jobs out of probably \$5 million worth and I think we picked up 200 grand's worth. Ah, GPT, probably 10, 15 shopping centres, all 3 or \$400,000 jobs, I think we picked up two.

So when you say you lost contracts- - -?---Yes.

20 - - -you mean you didn't get the entire contracts that you were after. Is that what you mean?---That's right, yes.

Okay. But was there ever an occasion when you lost a contract in a sense that you didn't get anything when Mr Paul was the consultant?---Oh, there would be, yes.

30 And which ones are they?---Well, GPT and, they wouldn't all come out at once, a tender would come out and the next one would come out in a month's time, two months' time.

I'll just show you a document, an email dated 13 November from Daniel Paul to Peter Roche, copy to yourself. I think it's Art Gallery 2, page 286. This is an email, if I can go to the first email, from Peter Roche to Daniel Paul, copy to you- - -?---Yeah.

- - -and Rod Waring?---Ah hmm.

40 Where Mr Roche asks Daniel, "I've been thinking about our conversation at Kirribilli Club last week on what evaluators look for in tenders and how they are weighted, the do's and don'ts, presentation et cetera." And then it asks if he would be available, the following paragraph, "Interested in meeting our sales team sometime in the future to discuss these elements of our work."---Yeah.

And do you recall an occasion when, following on from that email, when Mr Paul did attend Kings' office- - -?---Oh, look- - -

- - -to discuss what evaluators look for in tenders, how they're weighted, the do's and don'ts, the presentation et cetera?---Yeah, I think he was giving some advice to some of the, I, I wasn't privy to it, I wasn't (not transcribable) the email but I, I didn't attend any- - -

But you knew about it either before it happened or after. Is that right?
---Yes.

Okay?---Well, I don't know whether it did happen.

10

You don't know if it did happen?---No. Peter was organising- - -

At the top of the email Daniel Paul replies, "With pleasure, call me to arrange a time and a date?"---Yeah.

So he certainly accepted the invitation?---Yes, yes.

I tender that email.

20 THE COMMISSIONER: Yes. The email of 5 November, of 13 November, 2007 from Mr Paul to Mr Roche is Exhibit D44.

#EXHIBIT D44 - EMAIL FROM MR PAUL TO MR ROCHE 13 NOVEMBER

30 MR STRICKLAND: And I just want to show you another document which is UWS 647, an email from Jenny Cassidy of UWS to Peter Roche, attaching a letter Leo Johnson to Peter Roche on the same date as this email, 13 November, 2007. And on that same date, 13 November, 2007, you can see at page 648, Mr Johnson, the Senior Project Manager at UWS advises Mr Roche that Kings Security are successful in relation to the installation and maintenance of that, I think of the extension of the Concept 4000 system. Do you see that?---Yes, yes.

Do you recall, do you recall - - -?---Yes, yes.

40 - - - that happening, that you in fact got - - -?---Yes.

- - - an extended tender for that Concept 4000 system?---I think it was a tender, the Concept was extended, not, not an extended tender.

The, the tender was extended, thank you. You recall that, do you?---This is not an extension of the tender.

Then what is it?---Extended the tender (not transcribable)

THE COMMISSIONER: Well, you were just asked whether the tender was extended and I think you said yes?---I confirm (not transcribable) reason to extend the tender validity.

Mr Strickland, what is the question?

MR STRICKLAND: The question is is it the case that Kings' tender was extended or maintained in relation to that Concept 4000 system you've given evidence about earlier?---(not transcribable) extend the tender.

10

Well, just putting aside the letter I'm just asking you because it was a major contract. Do you remember whether, whether the tender was extended or whether it was maintained?---I don't know.

You don't know. Okay.

THE COMMISSIONER: It's an agreement to extend the tender validity period.

20 MR STRICKLAND: Yes.

THE COMMISSIONER: So was the tender validity period in that contract extended?---That's what it says (not transcribable)

Do you recall that or not?---No, I don't, no.

MR STRICKLAND: But in any event at the bottom of that page it refers to the fact that the UWS contract superintendent for this proposed contract is Daniel Paul, do you see that?---Yes.

30

Now, that's the same date that Mr Paul is invited to assist Kings in relation to how to tender, how, how Kings can tender for contracts, is that right? ---Yes.

Obviously it was considered by Kings that Paul was someone who would be able to greatly assist Kings in tendering for significant contracts, do you agree with that?---Yes.

40 And that was an idea that Kings had at the very least from November 2007, is that right?---Yes.

But indeed - I tender that document.

THE COMMISSIONER: Yes. Two emails dated 30 November, 2007 comprise Exhibit D45, the top email is dated 30 November, 2007 from Jenny Cassidy to Peter Roche, that is Exhibit D45.

MR STRICKLAND: 46, I'm told, sir.

THE COMMISSIONER: Is it 46? 45.

MR STRICKLAND: I don't know.

**#EXHIBIT D45 - EMAIL FROM MS CASSIDY OF UWS TO MR
ROCHE ATTACHING A LETTER FROM MR JOHNSON OF UWS
DATED 13 NOVEMBER 2007**

10

MR STRICKLAND: Now, Mr Diekman, I'm going to ask you some questions about the Art Gallery segment - - -?---Yes.

- - - and your knowledge about that tender - - -?---Yes.

- - - and your involvement in it?---Yes.

20 There's no doubt is there that that was a very significant tender for Kings?--
-Correct.

It was worth a lot of money?---Yes.

And at least as importantly it was a high prestige tender wasn't it?---Yes.

Why was it a high prestige tender?---The Art Gallery of New South Wales, a landmark site.

30 And Daniel Paul was the consultant in relation to that security project
wasn't he?---Yes.

And when – how did you first learn that the Art Gallery was tendering for someone to install an upgraded security system at the Art Gallery?---It was common industry knowledge that they were looking at upgrading after they had the painting stolen a couple of years prior.

40 And when you, when you heard that you were immediately interested in
tendering for it. Is that right, when you knew that it was up for tender?
---Yes.

Okay. And did you, did you speak to Mr Paul about tendering for it before you actually began the tender process?---Probably, yes.

Right. And what was the conversation you had with him about that?
---Technology.

Yes. Can you elaborate?---Well we were always talking about what technology is best and what's the latest and - - -

And what, what did you or he say about technology in relation to that particular security installation?---Nothing in particular about that one. It was just about technology in general, what's the best fit and, yeah, so, we never sat down together and said, pulled out all the documents and went through it. I, you know, it was just generally talking industry talk.

Right. All these questions I'm about to ask you solely relate - - -?---Yes.

10 - - - to the Art Gallery tender, nothing else?---Yes.

Did you have any specific discussion with him before you actually submitted a tender about what technology was appropriate for the security upgrade contract for the Art Gallery?---Probably.

And what was that discussion?---I can't recall what the conversation was.

Well do you recall discussing particular manufacturers?---Probably.

20 Right. And do you recall – what do you recall about that?---I just recall talking about all the different technologies out there.

And did you mention any, any brand names?---No. Look probably all of them.

Did you have a – did you express a view or did he express a view as to what was the most appropriate technology for that - - -?---Well I believe he was going down the – he was quite impressed with the Verint system.

30 Right. And just briefly the Verint system relates to what?---It's a CCTV system.

Right. And why did he say he was impressed with it?---It was good technology.

All right. Did he say why it was good technology?---It had good reference sites.

40 Good compression?---Oh, he could have said that but - - -

Well you were interested weren't you? You were keenly interested in what - - -?---Yes.

- - - his views were about good technology?---Yes.

What did he say apart from what you've just said?---We'd talk so much it's, just talking technology you know, what compression and what cameras can work on what and (not transcribable)

Did you agree with him that Verint was an appropriate technology for the Art Gallery? The Verint system for CCTV cameras?---Probably not.

And why was that?---Hmm?

Why do you say probably not?---Oh, I always thought there were better products out there.

10 And did you say that to him?---Oh I may have. I don't know. I don't recall that.

Well when you - - -?---Actually I don't even know whether it was (not transcribable) I just – we'd talk in general what's, yeah. See the products change so quickly.

When, when the specifications came out for that particular - - -?---Yes.

20 You know that the – did you know that the original specification was for Verint CCTV? The Verint product?---The rumours were going around the marketplace that they were looking at Verint.

Right. And where did you hear those rumours from?---Verint.

Right. Who from Verint?---Oh, the sale guy at the time.

Okay?---Or the sales reps that come around and talk.

30 When the – there are, there are what's called tender specifications that come out, don't you, don't they?---Yes, yes.

And when they, when they came out for the Art Gallery did you either read them or did someone tell you the substance of what they said?---Oh, yeah, I wouldn't have read them.

Okay. But did you know after the specifications came out that the specification was for Verint/Lenel products?---Yes.

40 And the Verint was for the CCTV?---Yes.
Correct?---Yes.

And the Lenel was for access control?---Yes.

And what does access control mean?---The card swipe system and alarm system.

Right. Into the various doors- - -?---Yes.

--for the, in, in the Art Gallery. Do you remember the name of the Verint salespeople?---No. Oh, I can't recall his name.

So when the, when the specifications came out- -?---Ah hmm.

--and you knew the specifications for the CCTV was Verint- -?---Ah hmm.

10 --did you have a conversation with Daniel Paul to the effect that, look, I don't think that's an appropriate product or I don't think that's the best product?---I could have, I don't recall saying that but I could have said there's always better options out there, mmm. What's good this week's, you know, there's something better out the next week and they keep jumping with their new versions that come out.

So after the specifications came out- -?---Ah hmm.

20 --did you have discussions with Dan Paul about this tender?---I think we were working on other, other projects so we probably, I probably discussed the technology, whether it was for that or not I don't, I couldn't recall.

So you, are you saying you do not recall, I'm not talking about specific conversations, you do not recall whether you had conversations in general about the Art Gallery tender between the time the specifications came out and the time Kings put in its first bid?---Yes, I would have had some conversations.

30 You would have had conversations with Daniel Paul?---Yes, yes.

And you say about the appropriate technology?---Yes.

And about price?---Ah, don't think about, it wouldn't have been about, oh, I don't think it would have been about price, it may have but- - -

You were asking him questions, weren't you, to try and find out as much as you possibly could- -?---Yes.

40 --to try and get the contract. Right?---Well, I was asking questions about technology, you know.

THE COMMISSIONER: Well, for the purposes of the contract. You were interested in the technology- -?---Well, we were- - -

--on this contract?---We were working on other projects at the time so- - -

But you were still nevertheless I assume- -?---Yes.

--interested in the technology that was to be incorporated in this contract?
---Yes.

And you asked him about that?---Yes.

And he told you?---He told me what?

Well, he answered your questions?---Well, he'd give his, his point of view across.

10

MR STRICKLAND: And what was his point of view?---Lenel/Verint was a good solution.

Did you ever discuss, I'm talking about now before you submitted your first bid, did you ever discuss the price, what, what, what kind of price was appropriate?---Not, not that I, no, not that I recall, no.

And do you know if at that time, and we're talking about, I'm talking about before you put in your first tender- -?---Yes.

20

--did Daniel Paul ever come round to Kings' offices?---Oh, he was there a lot so I assume he would have been there, yes, with other jobs.

And did he come to talk about the Art Gallery tender?---Not that I can recall.

And when you say he was around there a lot, what do you mean by a lot?
---Oh, sometimes you'd see him every second day and then you wouldn't see him for a week and then- - -

30

And, and why was he round there every second day at this period?
---Working on other projects and- - -

THE COMMISSIONER: What other projects were you working on?
---Oh, I can't recall at the moment, we were always working on projects.

MR STRICKLAND: Were there any specific projects that you can recall that you were working on with Daniel Paul at that time?---Not specifically, no.

40

When you say you were working with Daniel Paul at that time, what, in what way were you working with him?---Working on a job where he was the consultant.

Yeah?---And he was probably trying to witness test something or, yeah.

THE COMMISSIONER: You're just speculating now?---Yeah, 'cause I really can't recall.

MR STRICKLAND: Well, were you, were you working with Mr Paul at that time, and I'm talking about at the time between when the specifications came out and when the bid was first made, were you working with him in the sense that you were, you were contracting Mr Paul to do something?--- Absolutely not.

So if you were working with Mr Paul at that time it was in his role as a consultant, is that right?---Yes.

10

But in his role as a consultant to another project not Art Gallery?---On a number of projects.

Well, sorry, in relation to other projects not Art Gallery?---That's correct. So actually if I think about it we were asked to make up some sample housings and it might have been well beforehand, by the Art Gallery.

20

THE COMMISSIONER: I beg your pardon?---Oh, we did a job a couple of months prior to that at the Art Gallery and I think we were asked to provide some housings so that they could take some photos and give it to their architects or - - -

MR STRICKLAND: But what Mr Paul involved in that?---Yes.

In what way?---Trying to work out a way to put housings into their ceiling.

THE COMMISSIONER: Was he a consultant to that project as well? ---Sorry?

30

Was he the consultant in regard to that project as well?---Well, it was the same, it was the same project, they were looking at something that was going to be aesthetically suited for the Art Gallery.

A separate contract was it?---Well, we were working, yeah, there was a contract separately which no, Daniel wouldn't have anything to do with, which we just did a small job for, we quoted to Mr Anthony Morris.

40

Well, you're being asked what contracts were you working on at the same time as you were preparing for the Art Gallery tender?---Well, look, I can't recall, I'd have to go back through the records and have a look at what, what we were working on at the time.

But, but you also before the large tender, the \$2 million plus tender - - -? ---Yes.

- - - did you also do some other work for the Art Gallery in terms of supplying and installing access control readers for double doors?---Yes.

All right. If the witness could be shown Art Gallery 1, pages 305 to 306.

THE COMMISSIONER: Mr Strickland - - -

MR STRICKLAND: If I can just, if I can finish this.

THE COMMISSIONER: - - - it's entirely up to you what time we end but if you could I think everybody would appreciate an indication.

10 MR STRICKLAND: Well, that would be a convenient time then.

THE COMMISSIONER: Now?

MR STRICKLAND: Yes.

THE COMMISSIONER: All right. Very well. We will adjourn till tomorrow at 10.00am.

20 **AT 4.02 PM THE MATTER WAS ADJOURNED ACCORDINGLY**
[4.02PM]