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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

Reference: Operation E09/350

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY, 22 JUNE, 2012

AT 10.22AM

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

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

THE COMMISSIONER: I propose to formally announce the extension of the scope of the public inquiry which I foreshadowed yesterday. The following allegations are also being investigated as part of this public inquiry, (1) that ACG Fire and Security Pty Limited through Anthony Grubisic was involved with Kings Security Group Pty Limited in collusive tendering for former Department of Housing contracts in 2007 and 2008 and agreed to receive or received corrupt benefits for so colluding; (2), that Chris La Greca, a project manager employed by IPP Consulting Pty Limited, a company which was engaged by New South Wales Businesslink Pty Limited, in turn a public authority to select providers of security services for the former Department of Housing received or agreed to receive corrupt benefits from Kings Security Group Pty Limited in 2007 in return for recommending the awarding of Department of Housing contracts to Kings Security Group Pty Limited; (3) That Mark Eschbank, the facility services manager, Bankstown campus at the University of Western Sydney, that is referred to as UWS received benefits from Kings Security Group Pty Limited in 2007 in return for improperly assisting Kings Security Group Pty Limited in regard to a tender to UWS and providing confidential information.

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For the information of all counsel appearing, I propose to now inform you of the dates that have been set aside for this public inquiry should it last longer than anticipated. The period from now until 29 June has been set aside for this public inquiry.

After 29 June the inquiry will recommence on Monday, 30 July and run until Thursday, 2 August. If further days are required they will be from Monday, 6 August to Thursday, 9 August, the entire week commencing 13 August and three further days on 27, 30 and 31 August. I'm not saying that all those days will be needed but the Commission has set aside those days for the hearing should they be needed. I should also inform everyone that on Monday we will commence at 11.00am, not at 10.00am. Mr Strickland.

30

MS TRONSON: One preliminary matter, Commissioner, Tronson for the Art Gallery. In one of the documents that was tendered yesterday, in Exhibit 2, document R4 there were three further mentions over which the Art Gallery would seek a suppression order.

THE COMMISSIONER: Well, I better find those, just a moment. Right. What page are the - - -

40

MS TRONSON: Pages 626 and 627.

THE COMMISSIONER: Yes.

MS TRONSON: On page 626 in the row headed 4.8, in the final column in that row there's a mention of a suburb which I believe has already been

discussed. The Gallery seeks a suppression order in relation to that suburb name.

THE COMMISSIONER: Yes. Anything else?

MS TRONSON: In row 4.10 on the same page.

THE COMMISSIONER: Yes.

10 MS TRONSON: In the second column there is a mention of a product, there are three words.

THE COMMISSIONER: Yes.

MS TRONSON: The Gallery seeks a suppression order over all three words.

THE COMMISSIONER: Yes.

20 MS TRONSON: And on the following page 627 in row 4.12, in the final column there is a reference to a brand name, on the top line. The Gallery seeks a suppression order in relation to that brand name.

THE COMMISSIONER: All right.

MS TRONSON: Thank you.

THE COMMISSIONER: No object, Mr Strickland?

30 MR STRICKLAND: No objection.

THE COMMISSIONER: There will be suppression orders in relation to the following parts of Exhibit R4 which forms part of Exhibit 2. The words which appear in the column headed "Description" in item 4.10 on page 626, also the words that appear in item 4.8 on page 626 in the fourth column and the words which appear in the fourth column of item 4.12 on page 627.

40 **SUPPRESSION ORDERS IN RELATION TO THE FOLLOWING PARTS OF EXHIBIT R4 WHICH FORMS PART OF EXHIBIT 2. THE WORDS WHICH APPEAR IN THE COLUMN HEADED "DESCRIPTION" IN ITEM 4.10 ON PAGE 626, ALSO THE WORDS THAT APPEAR IN ITEM 4.8 ON PAGE 626 IN THE FOURTH COLUMN AND THE WORDS WHICH APPEAR IN THE FOURTH COLUMN OF ITEM 4.12 ON PAGE 627.**

THE COMMISSIONER: I think that gives you a wider suppression order that you sought but it's convenient to do it that way.

MS TRONSON: Thank you, Commissioner.

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Commissioner, just one housekeeping matter. Yesterday I think it was Mr Lloyd called for the tender evaluation probity report that was referred to by the documents. That has been found, we've provided it to my friend. I haven't had a chance to read it yet but when I do I'm sure I'll tender it in due course.

THE COMMISSIONER: Yes.

MR LLOYD: I thank my friend for that, Mr Commissioner.

THE COMMISSIONER: Yes, thank you.

20

MR STRICKLAND: Could the witness please be shown Art Gallery volume 2 page 121 headed "Tender Proposal Clarification". Do you recognise that document?---I do.

And did you either prepare or have a hand in preparing it?---I did.

10 I tender it.

THE COMMISSIONER: Yes, the document entitled Tender Proposal Clarification - - -

MR STRICKLAND: That's right. Submitted by Mr Roche.

THE COMMISSIONER: Submitted by Mr Roche will be - - -

20 MR STRICKLAND: On 3 March 2009.

THE COMMISSIONER: On 3 March 2009 that will be marked R7 in exhibit 2. Yes.

MS TRONSON: Commissioner, I seek a suppression order for parts of those - that document.

THE COMMISSIONER: Yes.

30 MS TRONSON: On page 125.

THE COMMISSIONER: Yes.

MS TRONSON: There's - at the top of that page there's a number 6 and words involved, I see from that line headed 6 down to the last line before the line headed 7.

THE COMMISSIONER: So you're - you're asking for the whole of item 6 to be suppressed.

40 MS TRONSON: Yes, Commissioner.

THE COMMISSIONER: Yes. What else?

MS TRONSON: On page 127.

THE COMMISSIONER: Yes.

MS TRONSON: All of the columns under the heading description.

THE COMMISSIONER: Yes.

MS TRONSON: On page 128. Again the whole of the column under the word description.

THE COMMISSIONER: Yes.

10 MS TRONSON: And in addition the brand names in item 9 in the column headed price ex GST.

THE COMMISSIONER: Yeah.

MS TRONSON: On page 129 the whole of the column under the word description.

THE COMMISSIONER: Yes.

20 MS TRONSON: And the same column on page 130.

THE COMMISSIONER: Yes.

MS TRONSON: On page 131. The column of the table headed by the words additional components installed.

THE COMMISSIONER: Yes.

30 MS TRONSON: On page 132 in the first of the two tables the columns headed by the words scope and the, the abbreviation QTY.

THE COMMISSIONER: So that's the whole of the column headed scope.

MS TRONSON: Yes.

THE COMMISSIONER: And the - what was the other item?

MS TRONSON: The next column the column headed with the abbreviation QTY.

40 THE COMMISSIONER: The whole?

MS TRONSON: Yes, Commissioner.

THE COMMISSIONER: Well, yeah. Is that - that is 132?

MS TRONSON: Correct, Commissioner. And then on page 133 the whole of the page.

THE COMMISSIONER: Is that all?

MS TRONSON: Yes. There was nothing further, Commissioner.

THE COMMISSIONER: Mr Strickland?

MR STRICKLAND: No objection.

10 THE COMMISSIONER: I notice that certain Pelco products are included in the matter suppressed. That's - there's no difficulty with that is there?

MR STRICKLAND: No, Commissioner.

THE COMMISSIONER: No, all right. Well there will be suppression orders as sought this morning to, behalf of the Art Gallery.

20 **SUPPRESSION ORDER ON SPECIFIED PARTS OF THE TENDER PROPOSAL CLARIFICATION SUBMITTED BY MR ROCHE DATED 3 MARCH 2009 ON BEHALF OF THE ART GALLERY**

MS TRONSON: Thank you, Commissioner.

MR STRICKLAND: Mr Roche, after the first meeting you had with the Art Gallery on 27 February you had a further meeting with them on 3 March. Is that right?---Correct.

30 And who attended that, that second meeting?---Diekman, Roche, Dunphy.

And between the first meeting and the second meeting did you have any communications including discussions with Dan Paul about the tender?---I did not.

Do you know if Mr Diekman had any discussions or communication with Mr Paul between the first and the second meeting?---I do not know.

40 Do you know if anyone else at Kings communicated with Mr Paul between the first and the second meeting?---Not that I'm aware.

If you could just look at this document, if you could go to page 122. Now did you write that page?---I think so, yeah.

You're going to have to speak up?---Sorry, I believe so.

Okay. And the question 3 the percentage of Kings electronic security turnover with this project represent, do you know who asked you to provide

that information to the Art Gallery, the Tender Evaluation Committee?---I believe the Art Gallery did.

Right. And when you say the Art Gallery who from the Art Gallery?---I think we received a – questions to clarify for Mr Tony Morris.

And did you discuss that figure with, with anyone at Kings?---I would have asked Mr Poller.

10 Right. And is that a figure that he gave you?---I believe so.

If I suggested to you that he, he gave you different percentages would you agree or disagree with that?---I don't know, I'd have to see.

You don't know?---Yeah.

Well when you wrote this sentence, this project will represent approximately 22 per cent of our 2009 budget for electronic security, were you intending to convey the truth as you understood it?---I hope so.

20

Did you know what the – did you know whether there was a percentage that would be regarded as desirable by the Art Gallery?---No, I did not.

That was never communicated to you by anyone?---No.

So you got this question from the Art Gallery you believe Mr Morris. And you then went to Mr Poller and asked him to provide that information. Is that right?---I think so.

30 When you say you think so - - -

THE COMMISSIONER: Can you, can you specifically remember doing this or are you trying to work out what must have happened?---Not sure of the order of events, sir.

I beg your pardon?---I'm not sure of the order of events as to how – I can't recollect it.

40 Well what can you recollect specifically or is the whole of your answer a reconstruction?---Uncertain of the time, sir.

Uncertain now?---Well - - -

MR STRICKLAND: I think he said uncertain at the time, Mr Commissioner. I think that's what probably the answer was.

THE COMMISSIONER: Uncertain at the time as to what? What were you uncertain about?---His question as to whether I – sorry, your question again?

MR STRICKLAND: My question was – let me ask you another one?
---Yeah.

10 When, my question was when you received the request from the Art Gallery to provide information about the percentage of Kings electronic security turnover that the Art Gallery project would represent did you then go to Poller to seek that information?---I think so, yes.

Is there anyone else that you think you went to or to discuss it?---Not aware.

I beg your pardon?---I'm not aware.

Have you ever been asked to provide such information before on a tender?
---I think we may have, yes.

20 Well have you or not?---I'm not aware of all tender responses as to - - -

I didn't ask you about all tender responses. Can you remember have you ever been asked to provide this information before in any tender?---I can't recall.

Okay. Did you – if Mr Poller gave you a percentage figure in answer to that question is that the percentage figure that you recorded in this document?---I can't recall.

30 Well, would you have changed it?---(No Audible Reply)

In other words, if Mr Poller said it was a different figure would you have, would you have caused further inquiries to be made to see if that figure was correct or would you have just accepted Mr Poller's figure and included that or would you have created your own figure?---I'm not sure, I may, may have made another judgment on it.

40 Okay. And why, and in what circumstances would you have - why would you have made, why may you have made another judgment on it?
---Depending on the information Mr Poller provided.

But you don't remember what that was, is that right?---No.

Mr Poller would be the person who would know the numbers, that is - I assume this question is asking for this, that to find out the total turnover of Kings in the year 2009 when this project was, when the contract was going to be entered into, correct, is that right?---Sorry, the question?

Well, I'm just trying to find out your understanding of what it was, what information was being sought. Is it, is it correct that what the information was being sought was to find out what your, what Kings' turnover was in a given year, is that right?---In that year 2009?

Yes?---Yes.

And did you understand that to be calendar year 2009 or financial year 2009?---Probably financial, yeah.

10

Okay?---Yeah.

So you needed to work out what was Kings' electronic security turnover in financial year 2009, is that right?---Correct.

And what is, what did you understand by electronic security turnover, what, what did that phrase mean? I understand what turnover means?---Mmm.

20

What's electronic security turnover?---Electronic security, the installations.

So well, can I ask you back in 2009 approximately what percent of your, of Kings' business was electronic security?---Oh, I would not know.

Well, can you give us even a ballpark figure?---I'm sorry, I couldn't.

And did you know back in 2009?---Oh, I was provided the information, yes.

30

In any event, what you were being asked for was whatever the electronic security turnover was in financial year 2009 was a given figure, we'll call it 10 million, and you were asked assuming we were awarded the contract at 2 million, what would be the percentage of that contract for the total electronic security turnover, that's what you're being asked to provide, isn't it?---Right.

Well, I'm just asking - - -?---Sorry.

- - - isn't that what you were being asked to provide?---I, I presume so, yes.

40

Do you understand my question or not?---I think so, yeah.

But you're not sure if you understand my question?---Not quite.

Okay, well, I'll try again?---Yeah.

I'm trying to, I'm trying to - you wrote an answer to the question?---Ah
hmm.

Right. The question you were asked is, and just have a look at it, the percentage of Kings' electronic security turnover would this project represent. Did you understand what the question was that you were being asked to provide information for?---Yes, I believe so, yeah, yeah.

I don't understand why you say I believe so. You either understood it or you didn't understand it?---Yes, I, yeah.

So did you understand it or not?---Yes.

10

Okay. Look - - -

THE COMMISSIONER: You mean yes, you understood it?---Yes, yes.

MR STRICKLAND: So if Mr Poller gave you an answer but as a percentage are you saying you, you would have been in a position in terms of your knowledge of the electronic security turnover of Kings to have given a different answer?--- ?---(No Audible Reply)

20 Did you have the information to give a different answer to the one Mr Poller provide?---I could have.

Well, can you explain what you mean by I could have? In what, in what way could you have?---Well, if we, if we, if I thought that we were going to turnover more revenue in a year than Mr Poller understood.

I see. It's in that circumstance. And - but you would have needed to have asked some people in relation to that wouldn't you, or you could have, you could have made an assessment yourself?---Oh, I probably would have
30 needed to ask the sales team.

THE COMMISSIONER: Mr Diekman?---A member of.

MR STRICKLAND: You see, the answer to that question would suggest that Kings' electronic security turnover for the financial year 2009 was roughly \$10 million, correct?---How are you calculating that?

Well, because if you take, if you round 22 per cent down to 20 per cent, then 20 per cent of 10 million is 2 million and that's what the, that's what, and
40 that's the bid you put in as at 3 March?---Right.

Do you follow me?---Yes, I do.

So that's roughly right is it, that Kings electronic security turnover in financial year 2009 was about give or take a few, about 10 million. Is that right?---I am uncertain. I'd have to look back on - - -

Can the witness please be shown the Tender Evaluation Report? Actually sorry, I just, I just tender that you Honour. That's not this witness's document so I'll just tender the Tender Evaluation Report, which is sorry, Art Gallery 2, page 150 through to 182.

THE COMMISSIONER: Yes, the Tender Evaluation Report is marked R8 and is part of Exhibit 2.

10 **#EXHIBIT R8 - TENDER EVALUATION REPORT FOR TENDER NUMBER AG0209**

MS TRONSON: Commissioner, I seek a suppression order over parts of that document.

THE COMMISSIONER: Yes, I thought that we'd been through this yesterday.

20 MS TRONSON: I wasn't aware that this particular document had been (not transcribable)

THE COMMISSIONER: It was – no maybe I'm wrong. Yes, anyway you better tell me.

MS TRONSON: At page 155.

THE COMMISSIONER: Sorry, just a moment, please. 155.

30 MS TRONSON: In paragraph 8(ii) and (iii), all of those subparagraphs.

THE COMMISSIONER: Yes.

MS TRONSON: At page 159.

THE COMMISSIONER: Yes.

40 MS TRONSON: In about the middle of the page there's a reference to a suburb name. I seek suppression of that suburb name.

THE COMMISSIONER: I don't see it.

MS TRONSON: It's in red in the column headed Desirable.

THE COMMISSIONER: Yes.

MS TRONSON: On the left hand side of the row.

THE COMMISSIONER: Yes.

MS TRONSON: Thank you.

THE COMMISSIONER: Yes.

MS TRONSON: On page 161.

THE COMMISSIONER: Yes.

10

MS TRONSON: There is a similar table, again the suburb name which is in a similar location.

THE COMMISSIONER: Yes.

MS TRONSON: On page 165.

THE COMMISSIONER: Yes.

20

MS TRONSON: In the column headed Understanding of Scope Diagrams and System Design - - -

THE COMMISSIONER: Yes.

MS TRONSON: - - - in the third row there's a reference to a product, the last three words of that box, I seek suppression of those three words.

THE COMMISSIONER: Well in the column headed Understanding of Scope Diagrams and System Design - - -

30

MS TRONSON: Yes.

THE COMMISSIONER: - - - it's that column is it?

MS TRONSON: It's that column, yes.

THE COMMISSIONER: And it's the second box in that column.

MS TRONSON: Yes, in the row - - -

40

THE COMMISSIONER: Well that whole second box will be deleted.

MS TRONSON: Thank you.

THE COMMISSIONER: Can be suppressed.

MS TRONSON: And the box to the right of that as well.

THE COMMISSIONER: And the box to the right of that, that's the second box under Provision of Compliant End to End Solution.

MS TRONSON: Correct, Commissioner.

THE COMMISSIONER: That will be suppressed.

MS TRONSON: Thank you. On the following page, page 166.

10 THE COMMISSIONER: Yes.

MS TRONSON: In the column headed Provision of Compliant.

THE COMMISSIONER: Yes.

MS TRONSON: The last box.

THE COMMISSIONER: Yes.

20 MS TRONSON: And on page - - -

THE COMMISSIONER: Just a moment. Just - sorry, just a moment. Yes.

MS TRONSON: On page 167.

THE COMMISSIONER: Yes.

MS TRONSON: There are three products in the column headed integrator ranking the three products - - -

30 THE COMMISSIONER: Sorry?

MS TRONSON: - - - under third, fourth and fifth.

THE COMMISSIONER: It's the third and fourth - the third, fourth and fifth products listed under the heading integrator ranking.

MS TRONSON: Yes, Commissioner.

40 THE COMMISSIONER: Yes.

MS TRONSON: On page 170.

THE COMMISSIONER: Sorry just a moment, please.

MS TRONSON: All of the columns that - - -

THE COMMISSIONER: Just - sorry, just hold on a second. Now the next one what page is that?

MS TRONSON: Page 170.

THE COMMISSIONER: Yes.

MS TRONSON: All of the first column under the heading extras unit price.

10 THE COMMISSIONER: Yes.

MS TRONSON: Page 178.

THE COMMISSIONER: Yes.

MS TRONSON: All of the column under the heading product.

THE COMMISSIONER: Yes.

20 MS TRONSON: And on page 179. Again all of the column under the heading product.

THE COMMISSIONER: Yes.

MS TRONSON: Thank you, Commissioner.

THE COMMISSIONER: Mr Strickland, no objection?

30 MR STRICKLAND: No objection.

THE COMMISSIONER: All - the suppression order is granted as sought for on behalf of the Art Gallery in relation to the Tender Evaluation Report exhibit R8.

THE SUPPRESSION ORDER IS GRANTED AS SOUGHT FOR ON BEHALF OF THE ART GALLERY IN RELATION TO THE TENDER EVALUATION REPORT EXHIBIT R8

40 MS TRONSON: Thank you, Commissioner.

MR STRICKLAND: I just want to take you to one part of this document, please. Just go please to page 157.

THE COMMISSIONER: Before you go on there is something I need to say I think, these documents have been distributed have they not?

MR STRICKLAND: I don't know the answer to that.

THE COMMISSIONER: Have they the copies - - -

MR STRICKLAND: Yes.

10 THE COMMISSIONER: - - - of these? It is the obligation of all the legal representatives and anybody else to whom these documents are distributed to obscure completely the information that has been suppressed. As far - my present understanding of them is that the - they are irrelevant to any decision to be made by the Commission so they can be blacked out and should be blacked out and I won't call for them to be returned to be blacked out but I am assuming that the - those in possession of copies of the document will today black them out and not let anyone else see them.

If there's any - if anyone has a different attitude to that now is the time to tell me.

20 Mr Strickland, yes, I think we can proceed.

MR STRICKLAND: Thank you. Have you got page 157?---Yes.

And can you see that's a - I'm suggesting you see in this document but can you see under the, under the, under the second column which says final price 40 per cent and then two, two figures. Do you see that?---Yes.

30 Were you given any information at any stage during the tender process as to what weight the price would have in the evaluation by the Tender Evaluation Committee?---No.

Did you know that the – did you ever – did you know or were you ever informed or advised that the weight given to price had changed during the tender evaluation process?---No.

Did Kings ever offer – did Kings ever make a further revised offer to Art Gallery for the whole project of less than \$2 million?---No.

Do you understand my question or not?---Yes.

40 And the answer is no?---Make another offer?

That's right?---No.

Did you ever – so your understanding was always that Kings – the price Kings – I'll withdraw that question. Your understanding was that the final price that Kings offered for this security tender was \$2 million?---Yes.

Which excludes GST?---Yes.

And nothing less?---No.

I beg your pardon?---No.

Is that correct nothing less?---Nothing less.

10 Thank you. Now there was an international security conference in Las Vegas that was held in March or early April 2009. Is that right?---I presume so.

THE COMMISSIONER: Well you were informed of that weren't you?
---No.

MR STRICKLAND: Did you know at the time of the tender process or any time during the tender process, that's from 3 February on did you know that there was – arrangements were being made for people at Kings and other people to go to the ISC conference in Las Vegas?---Yes.

20 Right. Now ISC is International Security Conference. Is that right?---I'm uncertain what it stands for.

Okay. And did Kings offer to sponsor anyone for that conference at that time apart from its own employees?---Not that I'm aware of.

Did you ever – did Kings ever raise the issue of sponsoring non-employees, non-employees of Kings to attend that conference?---Sorry, raise the issue?

30 Yes, raise the issue?---(No Audible Reply)

THE COMMISSIONER: Between themselves or - - -

MR STRICKLAND: I'll withdraw the question?---Mmm. Yeah.

Was there – did you ever have a discussion with Charlie Diekman about sponsoring non-employees of Kings to go to the ISC Las Vegas conference?

THE COMMISSIONER: In that year.

40 MR STRICKLAND: In that year?---Not that I can recall.

Was it a practice of Kings to sponsor people other than their own employees to attend that conference in any other year?---I believe we may have.

But you're not sure?---I never got involved.

I'm not asking whether you got involved I'm asking are you – your answer to my question was you are not sure. Correct?---Sorry, of?

I asked you this question?---Yes.

Has Kings ever organised or arranged for the sponsorship of non-employees to attend that conference in Las Vegas?---I believe we have.

All right. So why did you say you're not sure to that very question?

MR MAHER: Well - - -

10

MR STRICKLAND: I'll withdraw it, I'll withdraw that question. You say you believe you have?---We have.

You have.

THE COMMISSIONER: No, I think it's a no qualification.

MR STRICKLAND: Thank you.

20

THE COMMISSIONER: I'm not sure if that's right. You're saying yes, Kings did do that?---I believe so.

MR STRICKLAND: But you're not sure whether you did in that year. Is that right, 2009?---Correct.

If the witness could be shown – I'm sorry, I'll withdraw that. I tender a letter from the Art Gallery to Mr Roche dated 6 March, 2009. And I'll show a copy of that letter, from the Director of the Art Gallery to Mr Roche on that date.

30

THE COMMISSIONER: The letter from the Art Gallery to Kings Security dated 6 March, 2009 will be marked R9 and will be part of Exhibit 2.

#EXHIBIT R9 - LETTER FROM ART GALLERY OF NSW TO KINGS SECURITY GROUP DATED 6 MARCH 2009

MR STRICKLAND: Do you recall receiving that document?---I do.

40

If the witness could be shown please, I'm not sure what the, page 304, an email from Mr Diekman to yourself dated 27 January, 2009 and also containing an email from Mr Paul to Mr Diekman on 24 January, 2009.

THE COMMISSIONER: You're tendering that?

MR STRICKLAND: I will tender that and it should be, I beg your pardon, there's two pages to it, there's - I'll just, I'll just focus on that page.

THE COMMISSIONER: So you're just tendering this one page.

MR STRICKLAND: I just tender that one page.

THE COMMISSIONER: Yeah, two emails, the top one being from Mr Diekman to Mr Roche of 27 January, 2009 will be marked R10 and is part of Exhibit 2.

10

#EXHIBIT R10 - PAGE CONTAINING 2 EMAILS, THE FIRST OF WHICH IS AN EMAIL FROM MR DIEKMAN TO MR ROCHE DATED 27 JANUARY 2009

MR STRICKLAND: Did you read the email, you, you were sent, weren't you, the email from Mr Paul to Mr Diekman of 24 January, is that right?---I beg your pardon?

20

On 27 January Charlie Diekman sent an email to you saying "need to discuss", do you see that?---I do.

And he forwarded it on - in that email did he forward on to you the email from Mr Paul to him of 24 January?---Not that I can recall but - - -

Did you ever read the email of 24 January, 2009 from Mr Paul to Mr Diekman?---I may have.

30

Do you recall whether there was - ever discussing with Mr Diekman sponsoring Tony Morris of the Art Gallery to attend the ISC conference in 2009?---I never did.

You never discussed that with him?---I never did.

And did you ever discuss with Mr Diekman sponsoring Dan Paul to that conference?---I never did.

Thank you.

40

If Mr Morris attended - if there were, if there were arrangements in place as at January, 27 January, 2009 and continuing arrangements during the tender evaluation process between Kings and Mr Paul about sponsoring people to a - I withdraw that question. If - did you know about any arrangements in place between Kings and Daniel Paul about paying for people other than Kings' employees to go to the ISC conference?---No.

Would you have regarded that as improper?---Sorry, with whom?

Well, if there were discussions between Mr Diekman and Mr Paul about sponsoring Tony Morris would you have regarded that as improper?---Yes.

Why is that?---You're saying during the tender process?

Yes, during the tender process?---Yes.

Why?---We're in a tender process.

10 Yeah. And so why is that improper?---There's a decision to be made, it's a
- - -

I beg your pardon?---There's a decision pending and it's a process.

You'd regard it as a, as a actual or potential conflict of interest between - is that right?---Are we talking the date of this email in January or are we talking - - -

20 Well that's why I said ongoing. If there were - if, if there were discussions ongoing after 27 January during the tender evaluation process or the tender process which involved - - -?---'Cause I don't, I don't think we knew of the tender process during this did we?

Well I'm asking - I don't know, did you, did you know that there was going to be a tender process?---No.

30 You see it's got Tony Morris Art Gallery. Do you know why he would have been - why would - why was there any discussion that he should be sponsored?---No idea.

THE COMMISSIONER: Had you ever sponsored anyone from the Art Gallery before?---No.

Well did someone suddenly have a flash of inspiration to ask somebody from the Art gallery?---I'm not sure who.

MR STRICKLAND: Now could the witness please be shown two cheques.

40 THE COMMISSIONER: Sorry, are you tendering this Mr Strickland?

MR STRICKLAND: I'm sorry, I tendered them.

THE COMMISSIONER: You have tendered them. I'm sorry.

MR STRICKLAND: Could the witness please be shown two cheques and cheque butts cheque 3532 and 3533. There should be three - each cheque should contain three pages. I'll start, well, I just want to show him both, thank you.

Now if I can ask you about these two cheques together. First if you actually go to the cheque itself. I beg your pardon. Have, have you got in front of you two cheques with a cheque butt and a cheque butt and a bank record accompanying each cheque?---I do.

I tender separately, Mr Commissioner, cheque 3532 together with the cheque butt and the accompanying bank record as a single exhibit. It should be, it should be Poller 121.

10

THE COMMISSIONER: The cheque 3532 together with a document containing cheque butt, cheque butt for that cheque and bank record. What does that bank record relate to, does that relate to the payments - - -

MR STRICKLAND: I'm afraid it's not that particularly legible but it, it does relate - you'll see that there's a reference to 3532 and it, it - I believe it relates to the payment, yeah, it relates to the deposit.

20

THE COMMISSIONER: Yes, all right. So the cheque 3532 the page containing the copy of the cheque stub for that cheque and the bank record relating to depositing the bank cheque will comprise a bundle that is - that will be marked R11 part of exhibit 2.

#EXHIBIT R11 - CHEQUE 3532 TOGETHER WITH A DOCUMENT CONTAINING CHEQUE STUBB AND BANK RECORD RELATING TO BANKING OF CHEQUE

30

MR STRICKLAND: And I tender the other cheque 3533 also with a cheque butt and the bank deposit record.

THE COMMISSIONER: Yes. The cheque 3533, the page containing the cheque, a copy of a cheque butt for that cheque and the bank record relating to the depositing of that cheque comprises a bundle marked R12 in the exhibit 2.

40

#EXHIBIT R12 - CHEQUE 3533 TOGETHER WITH A DOCUMENT CONTAINING CHEQUE STUBB AND BANK RECORD RELATING TO BANKING RECORD

MR STRICKLAND: I'm sorry, Mr Commissioner, is that Exhibit R12?

THE COMMISSIONER: 12.

MR STRICKLAND: Thank you. Now, if I can just ask you about both these cheques together. Just go to the cheque itself, both cheques 3532 and 3533, is your signature on either of those cheques?---No.

And did you know about the payment by Kings on 12 February, 2009 of \$20,000 being made payable to Vegas conference?---Not that I can recall.

10 You don't remember at the time. Later did you, did you find out what those, who those cheques were given to and what their, where the money went?---Not that I can recall.

Have you ever been told about those two cheques?---Again, not that I can recall.

But have you ever asked Mr Diekman, they are Mr Diekman's signature on those two cheques, is that right?---Mr Diekman and Mr Poller.

Yes?---Yeah.

20 You never asked Mr Diekman about those two cheques?---I'm not sure if I've ever seen them.

Well, have you ever asked Mr Diekman about the payment of \$20,000 in, by cash cheque on, on 12 February, 2009?---Not that I can recall, yeah.

I appreciate that but I said cash cheque and I've been correctly reminded it's incorrect, that is Amex, cheques made payable to Amex for \$20,000, you've never asked Mr Diekman about that?---No.

30 So to this day do you know what those cheques, where the money for those two cheques went?---No.

Do you know where they were supposed to go?---No.

Okay. I want to take you to, can I show you two other cheques please, cheque 3605 and 3606. 36-5 and 3606 and if I could just take you to - could you just go to the actual cheques.

40 THE COMMISSIONER: I've only got one cheque.

MR STRICKLAND: There should be, this is Poller 137 through to Poller 141, there should be five pages in that bundle.

THE COMMISSIONER: No, I've got three pages.

MR STRICKLAND: You've got three, I'll get you, you should have five, there's more coming. Have you got three pages or five pages?---Three. Thank you.

Have you got five now?---Yes.

If I can ask you to look at the cheques, the actual cheques, both 3605 and 3606. And do you recognise, do you recognise those – the signatures on those cheques?---Yes.

And which signatures – whose signatures are they?---Mr Poller and Mr Diekman.

10

So did you, did you know about the payment of \$20,000 on 4 May, cheque payable to Amex and Vegas, sorry, cheque payable to Amex for \$20,000 on that day?---Not that I can recall.

And have you ever discussed with Mr Diekman why he signed cheques for \$20,000, a total of \$20,000 on that day?---No.

THE COMMISSIONER: So are you tendering these Mr Strickland?

20

MR STRICKLAND: I tender those.

THE COMMISSIONER: Yes, the bundle of documents, the top page of which is a copy of cheque stubs for cheques 3605 and 3606, also containing copies of those cheques is marked R13.

#EXHIBIT R13 - CHEQUES 3605 AND 3606 TOGETHER WITH A DOCUMENT CONTAINING CHEQUE STUBB AND BANK RECORD RELATING TO BANKING RECORD

30

MR STRICKLAND: Excuse me for one moment. I want to show you an email from yourself to Mr Diekman with some attachments dated 5 September, 2011. Excuse me. Now have you got that email?---Yes.

And do you recall sending that email to Mr Diekman?---I think so.

And attached to that email is this document saying Kings Security Art Gallery Tender Statement of Events. Correct?---Yes.

40

I tender that document.

THE COMMISSIONER: Yes, the email of 11 May, sorry, 5 September, 2011 from Mr Roche to Mr Diekman together with the attached Statement of Events is Exhibit R14.

**#EXHIBIT R14 - EMAIL FROM MR ROCHE TO MR DIEKMAN
WITH SUBJECT LINE "STATEMENT OF EVENTS" DATED 5
SEPTEMBER 2011**

MS TRONSON: Commissioner, I seek a suppression order over some matters on the final page of that document.

THE COMMISSIONER: Yes. Just a moment.

10

MS TRONSON: Certainly.

THE COMMISSIONER: I'll just deal with that in a moment. Yes.

20

MS TRONSON: On the final page of that document, Commissioner, there's a table at the top, I understand that not all of the table – that you won't grant a suppression order in relation to all of the table, but the brand names in the first column under the word System in the third, fourth and then the final row as well, although that's not a brand name. And also the brand name under the heading Manufacturer in the fourth row.

THE COMMISSIONER: Well on the last page of the statement of events there will be a suppression over - a suppression order over all items in the column headed system and manufacturer which follow the word CCTV and Pelco systems.

30

**ON THE LAST PAGE OF THE STATEMENT OF EVENTS THERE
WILL BE A SUPPRESSION OVER ALL ITEMS IN THE COLUMN
HEADED SYSTEM AND MANUFACTURER WHICH FOLLOW
THE WORD CCTV AND PELCO SYSTEMS**

MS TRONSON: Thank you.

MR STRICKLAND: Now, Mr Roche, what were the circumstances in which you sent this email attaching this document?---Circumstances?

40

Yeah?---I was trying to get my head around this whole statement of events.

And why were you trying to do that?---Because there was an inquiry or an investigation going on.

Right. And, and by inquiry you mean the ICAC inquiry. Is that right?---Correct.

Because that very day you'd been to see ICAC, is that right?---Not sure of that date.

You're not sure. If I suggest to you that you went to see ICAC on that day 5 September and conducted a record of interview would you agree with that or you're not sure?---Not sure.

I'll show you this document which I'll have, have - then have marked - I just want you to look at the first page, that's my, that's my document. Is that - do you recognise that as the first page of a transcript of your record - of a record of interview with you and ICAC on that day?---Yes.

10

Could that be marked, please, Mr Commissioner.

THE COMMISSIONER: Tendered or - - -

MR STRICKLAND: Just marked, please, marked for identification and I'll just need a copy of that. But could I - - -

20

THE COMMISSIONER: The record of interview between the investigator from the Independent Commission Against Corruption and Mr Roche on 5 September 2011 will be marked in MFI 1 and not yet an exhibit.

**#MFI 1 - RECORD OF INTERVIEW BETWEEN ICAC
INVESTIGATOR AND MR ROCHE ON 5 SEPTEMBER 2011**

MR STRICKLAND: Could I have a - thank you.

30

If I could just show you this document. I'm going to show this notice to produce documents. Now do you, do you - just go to the end of that page you'll see that there's a date on 5 September the second page the date of 5 September 2011?---Yes.

And that's a - you recognise - or do, do you remember that that was a notice to produce documents that were you given on the day you attended the interview on 5 September?---I do.

40

And if you just go to the third page under the heading schedule you'll see that you were asked to produce certain cheques issued by Kings and other documents and then four cheques, the details of four cheques referred to being the very four cheques that I've just shown you. Is that right?---I presume so, yes.

Well there's no, no presumption about it. I've shown you four cheques just in the last fifteen minutes. 3532, 3533, 3605 and 3606?---Okay.

And they're the cheques I've just - - -?---Okay.

It's not a presumption that, that's the fact isn't it?---Okay.

Do you agree with that?---Yes.

They are the same four cheques?---Yes.

I tender the notice to produce.

10 THE COMMISSIONER: The notice to produce documents served on Kings Security Group Propriety Limited on 5 September 2011 is marked R15 and is part of exhibit 2.

#EXHIBIT R15 – COPY OF NOTICE TO ATTEND AND PRODUCE SERVED ON KINGS SECURITY GROUP ON 5 SEPTEMBER 2011

20 MR STRICKLAND: So it's the case isn't it that that having received this notice to produce specifying those four cheques you then made some inquiries about those four cheques. Correct?---Correct.

And, and as a result you produce this document?---Correct.

So it is the - I, I assume that if you didn't sign the cheques and you've said that you didn't know anything about them at the time that you had to get some information from someone about those cheques. Is that right?---Yes.

30 Right. And who did you get the information from as to why the cheques were signed and who the money was going to? Who did you get, who did you get the information from?---I think our finance manager at the time.

So you went to Mr Poller, did you?---No, he was, I don't think he was there then.

Mr Marinucci?---It may have been Mr Marinucci, yes, or - - -

Did you speak to Mr Diekman about the cheques?---I can't recall, no.

Well, he's the one that signed them isn't he?---Yes.

40 And what did Mr Marinucci tell you about the cheques?---I don't think anything.

Well, let's have a look at, let's go through the pages and on the second last page oh, sorry, the last page, it should say "payments for Security Suppliers International"?---The other one I think. The other one.

R14?---I don't have it.

Could the witness be given R14. Have you got that?---Yeah.

Payment to Security Consultants International, the last page of that document. Is it - can I have a look at the document you've got please. You've got it do you? Sorry, can I have a look, please, I just don't know what document you've been given. Yeah, this is, this is the page, thank you. Now, you've, you've recorded here the following payments were provided to Security Consultants International, you've listed the four cheques and the four amounts, correct?---Yes.

10

And then you've got under the column "Reason" you have recorded and let's just deal with the first two cheques, "Sponsor delegate to ISC West" can you see that?---Yes.

Well, someone must have told you that for you to write in that under the heading "Reason", is that right?---Yes.

Who told you that?---I presume Mr Diekman.

20

Do you remember whether it was Mr Diekman who told you that?---I, I can only state that I probably went and investigated and asked him.

Well, Mr Roche, going to ICAC, being interviewed and then being given a notice to produce, that's not an ordinary thing that happens to you is it? ---No.

The first time its ever happened to you isn't it?---Yes.

30

You were shocked by being called before ICAC and being asked, being asked questions and then being given a notice weren't you?---Yes.

And you were worried weren't you to find out about these four cheques that you were required to produce, is that right?---I did want to find out.

No, you were worried about it weren't you?---I'm not sure of my emotion at the time.

40

And there would be absolutely no doubt that you would go to Mr Diekman, the person who knew about cash cheques being paid out of Kings to find out about those, where the money in those four cheques went and what the purpose of him writing the four cheques was, correct?---I presume so, yes.

Well, why do you presume so? I mean it's obvious that's what you would have done, isn't it, and that's what you did do, correct?---I, I can't recall but I presume so.

Well, just look at - let's just go to the very front of the, the page of this email, 5 September, 2011 you, you attach this document and then you say

“Let’s discuss in the morning, going to bed” because you’ve - it’s sent at 9.25pm isn’t it?---Mmm, yes.

And in fact you have, you have - you actually drafted this document some six hours earlier, didn’t you, you began to draft it some six hours earlier didn’t you?---I don’t know the timing on it.

I beg your pardon?---I don’t know the timing on it.

10 So there’s no doubt in the world you’ve discussed this, these two cheques with Mr Diekman didn’t you?---Again, I presume I did.

Well when you’ve written “Let’s discuss in the morning, going to bed”, are you saying you can’t recall the following morning having a discussion with Mr Diekman about the document you’ve sent him?---Sorry, say that again.

Did you have discussions with Mr Diekman the morning after 5 September, 2011 about the Statement of Events that you have sent him?---I can’t recall whether I did. I imagine I would have.

20

I want to suggest to you there is no doubt in it that you have a memory, an actual memory of talking to Mr Diekman about these cheques?---I’m sure I did.

No I’m, I’m putting something to you?---Mmm.

You can remember having a discussion - - -?---I can’t.

- - - with Mr Diekman about those four cheques can’t you?---No, I can’t.

30

It was a very important discussion for you wasn’t it, because you were being, you were being investigated and Kings was being investigated by ICAC?---It was important that I found out.

So was, was Mr Diekman the person who told you that the reason for the two cheques, 3532 and 3533 was because Kings was sponsoring a delegate to ISC West?---Yes, it would have been him.

Right. And did you ask him who the delegate was?---No, I did not.

40

THE COMMISSIONER: Why not?---Oh, I don’t know. No idea.

No idea.

MR STRICKLAND: Did you ask him why, why was \$20,000 in two cheques of 10,000 each?---No, I did not.

Did Kings have a policy – in relation to the bank cheques, sorry, in relation

to the cheques for \$10,000 either made payable to cash or Amex there are a number of cheques that I have shown you which are made, which are in the sum of \$10,000. Is that right?---Yes.

And was that a policy of Kings not to have any cheque made payable to cash or Amex more than \$10,000?---No.

No, no such policy?---No policy.

10 Well a practice?---No, no practice.

No practice?---No.

Do you know why these cheques – why there were no cheque – I’ll withdraw that. Why were the cheques that you have been shown during the course of this questioning in the sum of \$10,000 rather than any greater sum?---I don’t know.

20 Were you ever advised that if there was an amount – were you ever advised that you may have to report financial transactions greater than \$10,000? ---No.

THE COMMISSIONER: Did you know about that?---No.

MR STRICKLAND: And in relation to the other cheques, 3605 and 3606, Mr Diekman also gave you the reason for those two cheques was it, to reimburse for costs covered by SCI at ISC West. Is that right?---That’s what he’s told me, yes.

30 I beg your pardon?---That’s what he’s told me, yes.

All right. And, and did you ask him what, what the costs that were covered referred to?---No, I did not.

Well Mr Roche, you are being investigated by ICAC in relation to these cheques. You specifically went to ask him about these cheques, he’s given you this information, why on earth would you not ask him what the costs were that he was referring to?---I don’t know.

40 Well you must know Mr Roche. You must know mustn’t you?---No.

Did you deliberately not ask him?---Possibly.

Why do you say possibly? You would know whether you deliberately didn’t ask him or not?---I can’t recall.

Is that your, is that you’re stuck answer for a difficult question, I can’t recall, Mr Roche?---I’m trying my best.

Are you trying, are you giving honest evidence about this?---I am.

Your honest evidence is you can't recall. Is that right?---Thank you.

I beg your pardon?---Yes.

THE COMMISSIONER: Do you wish to adjourn Mr Strickland?

10 MR STRICKLAND: Yes, thank you.

THE COMMISSIONER: The Commission will adjourn for ten minutes.

SHORT ADJOURNMENT

[11.35am]

MR STRICKLAND: Commissioner, can I tender a – I think it's described
20 as a metadata analysis for 5 September, 2011 email which I've just
tendered. The metadata has been obtained by a computer forensic examiner.

THE COMMISSIONER: And so it's the metadata for the, well R14.

MR STRICKLAND: Could that be added to R14.

THE COMMISSIONER: Well the metadata document relating to R14 will
form part of the bundle that comprises R14. That bundle is the email of the
Statement of Events.

30

**#EXHIBIT R14 - EMAIL FROM MR ROCHE TO MR DIEKMAN
WITH SUBJECT LINE "STATEMENT OF EVENTS" DATED 5
SEPTEMBER 2011 WITH METADATA DOCUMENT RELATING
TO R14**

MR STRICKLAND: And could I just have that – I just wish for the sake of
convenience for the witness, I just wish to have that metadata back and I
want to flat something for the witness so he doesn't have to look at it.
40 Thank you. Thank you. So if you go – I just highlighted under the – in the
metadata there's a column, it says created. Do you see that? Monday, 5
September, 2011. I just flagged it for you Mr Roche?---Sorry, page 2?

No, the first page. Created Monday, 5 September, 2011 3.41pm. Do you
see that?---Yes.

And your interview with the ICAC Commission commenced at 2.30pm. Do
you agree with that? I'll show MF11 again?---Yes.

That's at 2.30pm?---Ah hmm.

And so it appears that as soon as you came back from the ICAC you've began to write this document. Is that right?---It appears, yes.

And could I have MFI1 back, please. And you obviously took immediate action because you realised how important it was. Correct?---I assume so, yes.

10

It's not a matter of assumption, Mr Roche, it's a matter of fact isn't it?
---Mmm.

That's why you've commenced writing the document as soon as you came back from ICAC because you knew how important it was?---Yes.

And if you go to the second page you'll see on this metadata you'll see it's got revision number. Do you see that?---Ah hmm. Yes.

20 And it's got 2 next to it. Correct?---Yes.

And if you go to the – back to the first page it you'll see it's last saved at 9.24pm on that day. Can you see that?---Yes.

So is it the case that you wrote this – part of this document and then later came back to it that evening?---It appears so, yes.

Well do you recall doing that?---No, I can't.

30 THE COMMISSIONER: Well the records show that.

MR STRICKLAND: Now I'll ask you again, after 5 September email that you sent that evening did you speak again to Mr Diekman about those four cheques?---After that you're saying?

That's right?---I possibly did.

40 Well I'm not ask - do you recall it or not? Do you have a recollection of speaking to him or do you not have a recollection of speaking to him?---
There was a lot going on at the time.

Answer the question?---Yeah. I can't recall.

Okay. I'll show you another email dated 6 September 2011, 9.37am and this should have three, four, five, six, seven pages of attachments to it. Can you just check that it's got seven pages of attachments, please?---Yes.

Now do you recall writing this email to yourself on that morning?---It seems odd.

I'm asking you do you recall doing that?---To myself, no.

I beg your pardon?---No, not to myself.

And do you see that under the date there's got attachments, do you see that?---Yes.

10

And attached to this document is the statement of events?---Yes.

And did you also - this is your document again, correct?---Yes.

So do you recall in the morning of 6 going back to revise the document you'd sent to Mr Diekman the night before?---I obviously did, yes.

Do you recall doing that?---I can't recall.

20

If you go to the - just go to the last page, please and then go to the second last page and you'll see again there's this Metadata that's, that, that - in there - this Metadata is for this particular email?---Yes.

It's the same creation time 5 September, 3.41 but the, but the last printed and last saved is different, it's last saved at - on 6 September and obviously you print it out. Do you see that?---Yes.

And if you go to the last page you'll see revision number 3. Do you see that?---Yes.

30

So this is the third time you've revised this document. Is that right?---Yes.

And when you printed it out did you give it to Charlie Diekman?---I don't know. Probably kept it and put in my folder.

Now between, between the time you write the 5 September email - - -?---Ah
hmm.

40 - - - in the evening and 6 September email in the morning some 12 hours apart did you speak to anyone about the cheques and where the money had gone and what the cheques were for but there's those four cheques?---Yes, I understand.

Who did you speak to?---I'm not sure whether I spoke to Mr Diekman or not.

But did you speak to anyone is the question? You don't need to flick through that I'm just asking?---Hey, I can't recall.

You don't recall. Well again I want to suggest to you this is, this is extremely important the exercise you were doing and you knew it at the time. Writing this document was a very important thing for you wasn't it?
---Yes.

No matter how busy you were this had number one priority didn't it?---I hope so.

Well it did didn't it?---I hope so.

10

If you go to the 6 September email and you go to the same section I was asking you about before, payments to Security Consultant International, if I can take you to those four cheques again, cheque 3532 and 3533, you've now got different reasons for those same cheques - - -?---Ah hmm.

- - - compared to 5 September email, don't you?---Yes.

And how do you explain that?---Mr Diekman informed me.

20

You now recall that do you?---I presume he told me that, yeah.

Well, I'm not asking what you presume, do you recall him telling you new information that led you to change the description in that document for the reasons for those two cheques?---I would have inquired of him.

When you say you would have do you recall inquiring?---I can't recall a lot of that time, yeah.

30

THE COMMISSIONER: Why not?---It was a very strenuous period.

Were you ill?---(No Audible Reply)

That's a question, were you ill?---That I can't recall.

You can't recall if you were ill?---Mmm.

You're playing games, Mr Roche.

40

Can you recall if you were ill?---I don't generally get ill.

I beg your pardon?---I do not generally get ill.

So were you ill or not?---No.

MR STRICKLAND: So as I understand it before you created the Statement of Events attached to 5 September email Mr Diekman had told you that the two cheques, 3532 and 3533 were used to sponsor a delegate to the ISC Conference in Las Vegas that year, is that right?---(No Audible Reply)

If the witness could be given R14 again. I'm asking you about the 5 September email, do you understand?---Yes.

Just have a look and go to that page where it says "Payment to Security Consultant International" and put it side by side with the 6 September attachment?---Yes.

10 So I'm just running through your evidence so I can understand it. You've said that - the source of the information for the first Statement of Events was Mr Diekman telling you that those two cheques, 3532 and 3533 were used to sponsor a delegate to the ISC West Conference in 2009, correct?---(No Audible Reply)

That's what you've told us before the break. Is that right?---I'm not certain how I got that information there, yeah.

20 But all I'm asking you is - we can have it replied if you like, that's what you told us before the break?---Did I? Mmm.

Well, is that - do you remember telling us that?---Did I type this, did I - yes, I did.

Yes, you did what?---I wrote that reason there.

30 That's not what I'm asking you. You've got to listen to the question. You told us before the break that the source of the information contained in the heading "Reason" in the first Statement of Events, sponsor delegate to ISC West - - -?---Ah hmm.

- - - the source of that information was Mr Diekman, do you remember saying that?---Yes.

And was that true, what you told us before - the evidence you gave us before the break, was that true?---I believe so.

Well, you gave the evidence?---Yes.

40 Was it true or not?---I hope so, yes.

THE COMMISSIONER: What do you mean you hope so?---Well - - -

Either it was true or not, you don't hope it was true. Did you give truthful evidence?---Yes.

MR STRICKLAND: And you also told us that you didn't ask Mr Diekman who the delegate was, do you remember giving that evidence?---Yes.

And was that true?---Yes.

And then you say that Mr Diekman told you a different story in relation to those two cheques at some time before you wrote the third revised version of this Statement of Events, is that right?---Yes.

And the different story was the two cheques were for a gift for a long term business associate 60th birthday and a farewell out of the industry. Is that right?---Yes, that's what I was told.

10

And that's why you – as a result of being told that that's you included this document. Is that right?---Yes.

And you were told by Mr Diekman were you that those two cheques were provided to Daniel Paul. Is that correct?---Yes.

To contribute to an overseas trip which included some business. Correct? That's what you were told by Mr Diekman. Is that right?---Yes.

20 And that Daniel Paul organised and paid for the trip through his travel agent Amex. Is that what you were told?---Yes.

Well didn't you – did you say to him well why, why didn't you tell me that the first time around?---No.

Why not?---I don't know.

30 I beg your pardon? I just didn't hear your answer. Why didn't you ask him why didn't you tell me that the first around? What was your answer to that question?---I didn't ask him, I - - -

I know you didn't ask him, you've said that. Why didn't you?---I don't know.

But you must know. As soon as you've come back from ICAC you've sat down to record as much as – in some detail about the source of these four cheques. Correct?---Yes.

40 And you're being given information by Mr Diekman to assist you in preparing this document. Is that right?---Yes.

What was the purpose of writing these documents, both of them?---I wanted an understanding.

Of what?---A statement of events.

Well if you wanted an understanding why then did you not ask Mr Diekman who the delegate was that he mentioned the first time around?---I don't know.

If you wanted an understanding of the events why didn't you ask Mr Diekman about why he didn't tell you about Mr Ciot and spending the \$20,000 on Mr Ciot the first time around?---I don't know.
I beg your pardon?---I don't know.

10 THE COMMISSIONER: An inference Mr Roche may be that you didn't ask him because you knew?---I didn't know.

It's such an obvious thing to ask him and there was such a need to know, an inference arises potentially that the reason you didn't ask him was there was no need to because you knew. What do you say about drawing such an inference?---It's not correct.

Well why didn't you ask him?---(No Audible Reply)

20 You're unable to provide an answer to that question are you?---That's correct.

That's correct. You're nodding you mean yes?---Yes.

MR STRICKLAND: See when I – if he's given – just go to the next – if you go to the next two cheques 3605 and 3606, you've recorded as the reason for those two cheques in the second document, reimbursement from Charles Diekman to Daniel Paul for Charlie's unsuccessful gambling night for both those cheques?---Ah hmm.

30 Do you see that?---Yes.

And is that what he told you?---Yes.

Well that's not what the first reason records is it for those two cheques, the first statement on 5 September, reimbursement for costs covered?---Mmm.

40 So he obviously didn't tell you on 5 September about that he needed the \$20,000 to reimburse Daniel Paul for unsuccessful gambling night otherwise you would have put it in the first one. Correct?---Yes.

So did you ever say to him in relation to those two cheques, look why didn't you tell me about that when I first wrote this, when I first asked you?---No.

Why didn't you?---I didn't ask.

I know you didn't ask, why not?---I have no answer.

THE COMMISSIONER: Well, another inference arises that's a possibility and I'm simply asking you about this inference so that you can comment on it and it's only a possible inference but it is certainly available and that reason is that you and Mr Diekman realised that the first set of reasons could get you into trouble and you and he were concocting a version which wouldn't get you into trouble and you hit upon the idea of this being a repayment for gambling debts so you put it in. That's a possible inference. Would you please comment on that?---It's an inference I don't entertain.

10 Well, why - explain the change then, Mr Roche, explain the change?
---Mr Diekman informed me.

He informed you of something on one day and then on another day he informed you of something entirely different, is that right?---Correct.

And you didn't bother to ask him why the change?---No, I didn't.

And you can't answer, you can't explain that?---No, I can't.

20 Were you surprised when you, when he, when he changed his version?
---I can't recall how I - - -

You can't recall?---Mmm.

So unimportant to you that you can't recall it?---Well, I don't think Mr Diekman could recall.

I'm not asking you about what Mr Diekman could recall, I'm asking you about the change on your Statement of Fact. You can't recall whether you
30 asked Mr Diekman about it or not?---No, I can't.

It wasn't important then was it?---Yes, it was, yeah.

It wasn't all that long ago, less than a year. You can't explain why you can't recall?---I can't.

MR STRICKLAND: Did you believe his second explanation to you, that the cheques were for Mr Ciot for an overseas trip, did you believe it?---Yes, yeah.

40 You did?---Yes.

You did not doubt it?---I didn't question it.

No, that's not my question. Did you doubt the truth of what he told you about those two cheques, that they were from Mr Ciot?---No.

Have you ever said to this - have you ever said before that you doubted Mr Diekman's explanation?---I may have.

Why may you have?---Mr Diekman's not always clear.

THE COMMISSIONER: You mean - when you say clear you mean truthful I take it?---Ah - - -

10 Because clarity of speech is not something that will explain this but dishonesty is?---Mmm.

I mean, there could be another explanation but it's for you to give, you've been given the opportunity.

20 MR STRICKLAND: Isn't it the case that Mr Diekman told you one thing the day before or shortly before, that the two cheques were to sponsor the delegates to ISC West and then he told you something quite different. Why do you believe what he said the second time around?---I can only assume that he thought about it, that he remembered.

And did you ask him about how it came to be that he had to reimburse Daniel Paul for his own unsuccessful gambling night?---No.

You didn't ask him?---No.

Did you ask him how much he owed Daniel Paul?---No.

I beg your pardon?---No.

30 THE COMMISSIONER: This \$10,000 is Kings' money isn't it?

MR STRICKLAND: 20,000.

THE COMMISSIONER: 20,000. It's Kings' money isn't it?---It is.

Why should Kings reimburse Daniel Paul for Charlie Diekman's gambling debts? Could you explain that?---It would, it would have gone on his expense account. He would have - - -

40 Gambling debts?---Yes.

His gambling debts is something that Kings pays as an expense does it?---He would have got it paid out of his dividends.

Just answer the question. Is it paid out of - is it classed - is it recorded in Kings books as an expense?---Not sure how it was recorded.

What do you think that does to the income tax that Kings pays?---I understand.

MR STRICKLAND: Obviously Mr Diekman told you that the amount that needed to be reimbursed was \$20,000, correct?---That was the value of the cheques.

That's not my question. Can you - we're going to be here a long time if you don't - - -?---Okay, okay.

10

- - - answer them. Do you remember the question?---Please.

Mr Diekman must have told you that he needed to reimburse Daniel Paul \$20,000 for the gambling debts that Diekman had incurred. Is that right?---I'm not sure whether he did or not, yeah.

Well you have recorded in this - - -?---Yeah.

- - - document - - -?---Yes, I have.

20

- - - two cheques \$10,000 each both occasions reimbursement from Charlie Diekman to Daniel Paul. Now did you just make that - did you make that up yourself?---No.

No. So in other words you didn't make them up so you were told something by Mr Diekman, correct?---Yes.

And that's why you included it. Is that right?---Yes.

30

And so it therefore follows that what he told you was that he had to reimburse Daniel Paul \$20,000. Is that right?---I believe so, yeah.

Why do you say I believe so? What other explanation is there for you writing those two entries next to those two cheques?---No other.

Right. If he told you that Mr Paul - he owed Mr Paul \$20,000 why not make it out to one cheque rather than in two?---I don't know why he requested it like that.

40

THE COMMISSIONER: I beg your pardon?---I don't know why he requested it like that.

Did he request like that?---Well he obviously did he wrote it out like that.

Who did he request?---Himself.

I beg your pardon? That - look that's nonsensical. How he can request himself? Who did he request to write it out like that?---Mr Poller.

Did you, did you know he was going to request it like that?---No.

But, but when you spoke to him about it you knew that he had requested someone to like - to write it out like that?---I didn't think about it when I asked him, no.

You weren't curious about why he wanted two cheques of \$10,000 each?
---No.

10

MR STRICKLAND: That answer wasn't recorded?---No.

Well let me ask you again, there must be a reason why all these cheques, these cash cheques not just these four but many others that I've asked you about - - ?---Ah hmm.

- - - are for \$10,000. I want to give you an opportunity to explain why were they to your knowledge made out in the sum of \$10,000?---I don't know why he chooses but there's no policy, there's no practice.

20

I see. Okay. Was it the case that you and Mr Diekman put your heads together to come up with an explanation for these four cheques?---No.

Because you knew didn't you that you would have to go back and face ICAC for further questions about those four cheques, didn't you, at some stage?---I, I did.

Right. And so what I'm asking you is that's the reason you created this document wasn't it, so you could get straight in your own mind why - what was the explanation for these four cheques?---(No audible reply)

30

Is that right?---It was the whole statement of events I was trying to get clear.

Now did you ask any of your finance people how to account for those four cheques?---How to account for them?

Yes, how to record them in the company books?---No, I don't believe so, no.

40

Do you understand my question or not?---Not really.

Well there's four cheques from the Kings company. Right?---Yes.

They have to be accounted for don't they?---Yes.

You've got an accounting system, an MYOB system?---Ah hmm.

Is that right?---Yes.

So you and Mr Diekman had discussions about the cheques and where they went, but the accounting people had to know so they could record it in the company's books. Correct?---Yes.

Right. So do you tell – was Mr Marinucci the finance manager at this stage or Mr Poller?---No I think, Mr Neal.

10 Mr Neal. Well do you know how these four cheques were accounted for at the time that they were written?---No, I don't.

Did you make any inquiries about that?---Not that I can recall, no.

But wouldn't that be important for you to know? You're doing an inquiry you say to find the truth of these four cheques, surely an essential part of that inquiry would be to find out how those four cheques are accounted for. Correct?---No, I didn't do that, no.

20 You've never done that?---No.

Have you ever indicated to anyone that you would do that?---Not that I'm sure, no.

Why haven't you done that?---I don't know.

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

30 THE COMMISSIONER: One possible reason could be that you knew that whatever was recorded was false. Would that – is that possible?---I didn't consider it, no.

I'm going to show you another document. An email from – I tender the email of 6 September and the attachments.

THE COMMISSIONER: The email of 6 September and the attachments will be marked R16 and admitted as an exhibit as part of Exhibit 2.

40 **#EXHIBIT R16 - EMAIL OF 6 SEPTEMBER AND THE ATTACHMENTS**

MS TRONSON: Commissioner, I seek a suppression order over part of that document, the equivalent is for, for R14. It's on the last substantive page before the metadata.

THE COMMISSIONER: That's the name of the part dealing with the suppliers?

MS TRONSON: Yes, Commissioner.

THE COMMISSIONER: All right. Well the, the attachment headed Kings Security Art Gallery Tender Statement of Events has as it's – the second – the last page of that attachment has two columns under the heading Suppliers, everything in that column under the word CCTV and Pelco system will be suppressed.

10 MS TRONSON: Thank you, Commissioner.

**THE ATTACHMENT HEADED KINGS SECURITY ART GALLERY
TENDER STATEMENT OF EVENTS - COLUMNS UNDER THE
HEADING SUPPLIERS, EVERYTHING IN THAT COLUMN
UNDER THE WORD CCTV AND PELCO SYSTEM WILL BE
SUPPRESSED**

20 MR STRICKLAND: I want to show you a document entitled "Charlie's recollection of events in Vegas". Have you had a chance to read that?
---Yes.

And you recognise this document don't you?---Yes.

Did you type this document?---Yes.

And what was the purpose of typing this document?---For Charlie's solicitor.

30 You, do you know why Charlie himself didn't do it?---He can't, he can't type that well or express that well.

Did you - did Charlie - was the source of this information from Charlie?
---Correct.

You present this document on 14 September to ICAC during a private examination?---Did I?

40 I'm asking you, do you recall doing that?---No.

And is that information - to your knowledge is the information that's recorded in this document the truth?---It's Charlie's information.

Yes?---Yeah.

Is it the truth as far as you're as far as you know?---It's what he told me.

Yes, I know but I'm now asking you a different question, Mr Roche, as you well know. I'm not asking you what he told you. As far as you know is this information the truth?---I can't state yes or no on that.

THE COMMISSIONER: Well, do you know anything which would suggest to you that it's false?---Again, you know, I've taken what information he's provided me.

10 I'm asking you whether you know anything which would indicate to you in any way that what is set out in this document, Charlie's recollection of the events in Vegas, to be false?---I don't know.

You don't know of anything?---Well - - -

So you don't know anything which could suggest that anything in this document is false?---It's not my information, yeah.

20 Look, Mr Roche, just answer this question now. You know of nothing which indicates in any way that this document is false, yes or no?---Again, I don't - - -

Yes or no. That question admits of only one answer, either yes or no, it cannot be an answer I don't know. All you are being asked about is what you know. You're not being asked whether it's true or false, you are being asked whether you know anything which indicates in any way whether this document is false?---Commissioner, I can only provide the answer that it's the information that I was given.

30 No, it's not - - -?---Oh, sorry.

It's not the only answer, Mr Roche?---I'm sorry.

40 You see, you may know - there are a number of ways in which you could receive information which might suggest to you that what MR Diekman told you here was false, for example, and I'm not saying he said this, this is purely hypothetical, he may have said to you look, I'm going to tell you something that's not true but this is what I'm going to tell you or someone else may have said to you I know Charlie has said anything, something, told you about a \$20,000 gambling debt that he owed Daniel Paul but that's not true. You're being asked whether you had, whether are you in possession of any information which indicates in any way that what is set out in this document is not true. What is your answer to that question?---Again, the same, your Honour.

What?---The information was provided to me by Mr Diekman and I typed it up for him and rephrased and that's what it is - - -

I understand that and I understand, Mr Roche, that this is simply information that you were given by Mr Diekman and you cannot verify whether it's true or not because this - you weren't involved in the events or most of the events that are recorded in this document. That's perfectly well understood. But it doesn't follow that you were not given information which indicated to you that the information contained in this document is false and all you're being asked is whether you received information from Mr Diekman or anybody else which indicated to you that what he said to you as recorded in this document is false. That's a very easy question to answer yes or not to and it has nothing to do with the, with the fact that Mr Diekman gave you this information it has to do with whether you know anything else. Do you or don't you?---I can't change my answer. That's, that's the information I was given.

You are not answering the question and, and I am now warning you that you are potentially in contempt of the Commission for refusing to answer a question. Now that's a - I think that I will adjourn, you can speak to your solicitor about this. You've got to answer that question yes or no. We'll adjourn for five minutes while - explain to the witness the root of the - the provisions of the Act relating to contempt.

MR MAHER: Yes, Commissioner.

SHORT ADJOURNMENT

[12.37pm]

THE COMMISSIONER: Mr Maher, shall I put the question again or is that pointless?

MR MAHER: No, I think there is a point to putting the question again, Commissioner.

THE COMMISSIONER: All right. Mr Roche, you've been asked about, can I have the document, just a moment, sorry. The document that you're being shown Mr Roche, I just want to understand exactly first your evidence about how this document was created. Do I understand correctly that you typed out what Mr Diekman told you? Is that, is that what you're saying? ---Typed out from the information he provided me.

He provided you information and you, and you went to your computer and typed it out?---Retyped.

Retyped it?---Yes.

So was there something else typed before you typed this?---Yes.

What was that?---A email I think from Mr Diekman to his lawyer.

And did Mr Diekman show you that?---I think he sent it to me or copied me in on it.

It was Mr Diekman's lawyer was it?---I beg your pardon?

Mr Diekman's lawyer?---Yes.

10 And he copied you in on it and was it an attachment to that email this from -
- -?---I can't - - -

Did you, did you, did you draw this up from an attachment to the email?---I don't know whether it was an attachment or embodied in an email.

But did you summarise it? I'm not sure why? Why did you feel it necessary to retype it?---I, I think the way that he communicated or wrote it out.

20 What do you mean?---I, I can't recall how he had put it at the time but it was a - - -

Was it jumbled up?---Thank you.

It was. Was it jumbled up?---I, I believe so, yeah.

And did you then attempt to put it in a, in a more orderly way. Is that what you're saying?---Yes.

30 And then what did you with it, did you just keep it?---I'm not sure if I sent it to - or we took it to his solicitor or not. I, I think we probably did.

You can't remember?---No.

Did you retain a copy?---Yes.

Now do you know anything - are you in possession of any information to indicate in any way in what he said to you wasn't true?---Not that I'm aware of.

40 All right. Well, I will accept that as a no. Do you mean, do you mean by that no?---Thank you, Commissioner.

Yes. All right. Mr - - -

MR STRICKLAND: If that document could just be marked for the moment.

THE COMMISSIONER: Yes. This document, Charlie's recollection of the events in Vegas will be marked MFI 2 and we will adjourn till 2.00pm.

#MFI 2 - THE DOCUMENT, CHARLIE'S RECOLLECTION OF THE EVENTS IN VEGAS

LUNCHEON ADJOURNMENT

[1.03pm]

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