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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 2.16PM

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.

<PETER JAMES ROCHE, on former oath

[2.16pm]

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Your Honour, I tender the document entitled Charlie's recollection of the events in Vegas, MFI 2.

10 THE COMMISSIONER: Yes. The document headed Charlie's recollection of the events in Vegas will be Exhibit R17.

#EXHIBIT R17- DOCUMENT ENTITLED "CHARLIE'S RECOLLECTION OF THE EVENTS IN VEGAS"

THE COMMISSIONER: Mr Roche, this is one page, did it have more than one page?---Excuse me, the?

20 This document?---I think there was.

Was what?---You say did it continue?

Yes?---I believe so, yeah.

Do you know where the rest of it is?---Don't you have it?

I don't know.

30 MR STRICKLAND: I don't have it on me but I'll - - ?---Well, I don't know.

- - - I'll make some inquiries.

THE COMMISSIONER: Yes.

MR STRICKLAND: If I could tender some documents relating to these cheques. First, I tender remittance advices for cheques 3532 and 3533, both dated 12 February, 2009.

40

THE COMMISSIONER: So what's that? Is that a bundle?

MR STRICKLAND: It's just two pages. Two, two remittance advices, both dated 12 February, 2009, both for \$10,000, that's cheques 3532 and 3533.

THE COMMISSIONER: And they're dated 2 December, 2009?

MR STRICKLAND: 12 February, sorry - - -

THE COMMISSIONER: 12 February.

MR STRICKLAND: 12 February, 2009.

THE COMMISSIONER: R18 is constituted by two remittance advices for the two cheques of \$10,000, both dated 12 February, 2009.

10

#EXHIBIT R18 - TWO KINGS SECURITY GROUP REMITTANCE ADVICES DATED 12/02/2009

MR STRICKLAND: I also tender two further remittance advices, both dated 4 February, 2009, 4 May 2009, each for \$10,000.

THE COMMISSIONER: R19 is constituted by two remittance advices dated 4 May, 2009, both for \$10,000.

20

#EXHIBIT R19 - TWO KINGS SECURITY GROUP REMITTANCE ADVICES DATED 4/05/2009

MR STRICKLAND: I also tender Kings' general ledger between 1 July, 2008 to 30 June, 2009. I understand this relates - just relating to travel constituted by four pages.

30 THE COMMISSIONER: Yes. Kings' general ledger from 1 July, 2008 to 30 June, 2009 relating to travel expenses is marked R20 and is an exhibit, part of Exhibit 2.

#EXHIBIT R20 - KINGS SECURITY GROUP GENERAL LEDGER 1/7/2008-30/6/2009

40 MR STRICKLAND: Thank you. And when convenient could the witness be given R18 through to R20 together with the 6 September email is R17 and R16, I believe. I beg your pardon, I'm sorry, R14 and - R14 and R16 I'm told. So if I just take you first to Exhibit R18, which is the two remittance advices in relation to the cheques 3532 and 3533, can you see there that - first you understood what the purpose of a remittance advice was. Is that correct?---Yes.

And what is that? What's the purpose? Mr Roche? What function does a remittance advice have?---Isn't it normally on the presentation of a cheque or something - - -

I'm asking you. If you don't have an understanding that's fine?---No, I don't.

You don't?---No.

- 10 Okay. In any – but you certainly understood it forms part of the accounting records of Kings?---Yes.

And you notice that for both of those cheques they record, they record those two cheques as being made out for travel expenses for the Vegas conference. Do you see that?---Yes.

Which is consistent with the first, the first version of the Statement of Events you've given on the 5 September email. Correct?---Yes.

- 20 Sponsor delegate to ISC West. Do you understand what I'm saying or not? If you don't that's okay, I'll ask you again?---Yeah, I don't.

Well in your, in your 5 September, I'll call it version 1 and version 2 just so we can make it simple?---Yes.

Version 1 I mean your, the Statement of Events of the 5 September email? ---Yes.

- 30 And version 2 the 6 September. Are you with me?---Yes.

And in version 1 you've agreed that you recorded sponsor delegate to ISC West which would, if that were true that would probably be recorded in your – in the remittance advice as travel to Vegas conference. That would be an accurate description of it wouldn't it?---I believe so, yes.

Right. And did you advise – it was Mr Poller I think who was working at this time wasn't it, as the finance manager in February 2009. Is that correct? Or was it Mr Marinucci?---Uncertain.

- 40 Well whoever it was, whether it be Mr Poller or Mr Marinucci, did you advise them to record those two cheques as being for that, for the travel purposes to the Vegas conference?---No.

Now Mr Marinucci started in August 2009. Does that ring a bell? ---Uncertain.

And likewise if you go to R20 which is the general ledger on page 135 you'll see – you understand what the purpose of a general ledger is don't you, in a general sense?---Yes.

Okay. That, that's to record every expense that the company has for accounting purposes and for financial year, end of financial year statements?---Yes.

10 And if you go to 135 you'll see that the two cheques are accounted for in the same way under travel Vegas conference. Do you see that, page 135 the third and fourth entries?---Yes.

So in fact the way - have you - were you ever advised that Mr Ciot C-i-o-t actually travelled to Las Vegas?---No.

Were you advised where he did travel to?---No.

Are you sure?---Yes.

20 Now if you go to the next document the next remittance advice which is exhibit I19 both cheques 3605 and 3606 also recorded in their remittance advices being for the travel to the Vegas conference. Do you see that? ---Yes.

Now according to your second version of those two cheques, that's the version on 6 September, that's an inaccurate description of those two cheques isn't it?---(No audible reply)

30 It's an inaccurate description of how that money was - where that money went and what the expenses were for?---Yes.

Did you - in relation to those two cheques did you - two remittance advices did you advise Mr Poller or anyone else in the finance department that those cheques should be accounted for or recorded as being for travel expenses for the Vegas conference?---No.

Do you have any explanation why they are recorded in that manner?---No.

40 Would you agree with me that the only, the only two possibilities as to why they were recorded in that manner is either you or Mr Diekman told someone in the finance department to record them in that manner. Do you agree with that?---Yes, yeah, yeah.

And if you go to the general ledger 20 and if you go to page again 135 you'll see at the bottom of the page this time the general ledger records cheques 3605 and 3606 as being for the Vegas conference. Do you see that?---Yes.

Okay. Thank you. And I think I asked you before lunch whether you had ever investigated with the accounts department how all four of those cheques were treated and you said you had not investigated it. Is that right?
---Yes.

Now did - I've asked you some questions about discussions with Mr Diekman about those four cheques. Did Mr Diekman ever say to you before you wrote either of your emails the 5 or 6 September, I've got things to tell you, I've got to come clean on some cheques?---No.

10

Mr Commissioner, I seek a variation on the suppression order for this witness in relation to evidence that he gave on 14 September 2011 in a compulsory examination.

THE COMMISSIONER: Yes. That's - the suppression order made in regard to that compulsory examination transcript is uplifted.

20

**THE SUPPRESSION ORDER MADE IN REGARD TO THAT
COMPULSORY EXAMINATION TRANSCRIPT IS UPLIFTED**

MR STRICKLAND: No, we don't have copies here I'm afraid but - - -

THE COMMISSIONER: Yes. How many pages, it's quite long - - -

MR STRICKLAND: Well it's that - in relation to this witness they were about - it's approximately 50 to 60 pages of this - - -

30

THE COMMISSIONER: There is - that being so I would ask those - only those who think they really need copies of it to request copies because of the difficulties in making so many copies of the transcript but if anybody wants a copy they have a copy, we'll do our best to do it but there are a number of (not transcribable) I can't advise you but I think there's very little in the compulsory examination which is different to what Mr Diekman - what Mr Roche has said other than what he's going to be asked about this afternoon.

Mr Lloyd?

40

MR LLOYD: Well, Mr Commissioner, I'd like a copy. If it's much the same I don't know why we're using it. If counsel (not transcribable)

THE COMMISSIONER: I said other than, other than what Mr Strickland's going to ask Mr Roche about this afternoon.

MR STRICKLAND: They're coming up right now I'm told.

MR LLOYD: If it's a discreet page that's all I'd like.

MR STRICKLAND: I think the copies are coming up now.

THE COMMISSIONER: All right. Well, you'll get your copy in full. Enjoy reading it.

MR LLOYD: Thank you, Commissioner.

10 THE COMMISSIONER: Is there any objection if we proceed in the meantime?

MR LLOYD: No. Maybe just the page could be identified which it undoubtedly will so we know - - -

THE COMMISSIONER: It will be.

MR STRICKLAND: I'm just trying to get back one other copy. If I could just get you to look at this document. Do you agree that you gave some evidence before - in a private hearing you gave evidence before this
20 Commission in a private hearing on 14 September, 2011? Do you, do you agree with that?---Yes.

And when you gave that evidence did you do your best to tell the truth?---I believe so, yeah.

And you understood how important it was to tell the truth?---Yes.

And how important it was to be as accurate as you could?---Yes.

30 Okay. And of course this, this evidence was given some nine days after the 6 September email, is that correct?---Yes.

And is it the case that the emails that the attachments you wrote to the 5 and 6 September email were written to assist you in the preparation of the evidence that you were going to give before ICAC?---No.

That's not so?---No.

40 You understand my question or not?---Yes.

And do you remember at that hearing on 14 September that you provided the document which - perhaps the witness could be given the exhibit, I'm afraid I don't have the number, the single page Charlie's recollection of events.

THE COMMISSIONER: R17.

MR STRICKLAND: Thank you. Do you, do you remember presenting that at the, at that hearing? Do you remember presenting this page at that hearing?---No.

Okay. I'll go on with asking some questions about this and I think these documents are coming shortly.

THE COMMISSIONER: Yes, we'll come back to that.

10 MR STRICKLAND: I'm told Mr Roche's representative has a copy.

MR MAHER: Yes.

MR STRICKLAND: If you go to page 207, you were asked this question at line 10, let me just try and put it in some context, I'm sorry. I'll take you to page 206 just to give you the full context. So at the top of the page you were asked - - -

THE COMMISSIONER: Mr Lloyd, that is being shown.

20

MR LLOYD: I've got lousy eyes, Commissioner, but I'll do my best.

MR STRICKLAND: I'm just giving you some context?---Mmm.

You were asked some questions about, you see on line 11 about cheques numbered 3533 and 3532, do you see that?---Page 207?

Yes, 206 at line 11. Do you see that?---Yes.

30 And I'm not going to read them all but I'll just go to line 38 or line 37, you were asked this question and I'll read it out for those who can't see the screen, "Why would Kings Security be writing two cheques, now those two cheques are the 3533 and 3532 - - -?---Ah hmm.

- - - on the same date for \$10,000 each made out to Amex for Vegas conference travel when Kings Security does not have an Amex account?" Your answer is, "I'm unaware of the time but I've since learnt." Question, "All right. And who have you learnt from?" Answer, "Doing our own internal sort of investigations." Do you see that answer?---Yes.

40

And was that answer true?---Which part of it?

The answer, "Doing our own internal sort of investigation." Did you – did Kings do an internal investigation into those two cheques?---No. Well - - -

You did an investigation. Is that right?---Yes.

Okay. And that's what you were referring to in that answer. Is that right?

---Yes.

Okay. Then you were asked this, “All right. Can you tell us first of all what it is that you have, that you say you have since learnt?” And your answer was, “These were for Mr Morris Ciot for travel and accommodation expenses for him and his girlfriend or wife at the time”?---Ah hmm.

10 “And who did you learn that from?” And your answer was, “Mr Diekman.” And if you go over the page, “Anybody else or just Mr Diekman?” Answer, “Just Mr Diekman.” Question, “What exactly did Mr Diekman say to you?” Answer, “He advised they were as a parting gift from the industry.” Question, “Where did you have this conversation with Mr Diekman?” Answer, “Over a week or so ago.” Do you recall that answer? Sorry, do you recall giving those answers?---No, I don’t.

Okay?---Yeah.

20 See I asked you before lunch, before when we’ve gone to this topic whether you’ve ever had any conversations with Mr Diekman about those two cheques. Do you remember that?---Yes.

And your answer was no, your original answer. Do you remember that?
---No.

You don’t recall the answer you gave before lunch?---No.

Is that right?---I can’t recall the question I gave, the answer I gave to the question five minutes ago.

30 Why is that?---I’m getting tired.

Okay?---I also have an issue which you’re aware of.

Are you right to continue today or not?---How long – how much have we got?

All right. It depends on your answers I’m afraid?---Mmm. I’ll try.

If you need - - -

40

THE COMMISSIONER: If you feel that you’re not able to continue just let us know Mr Roche?---Mmm.

MR STRICKLAND: It’s important that you give the answers as best you can. And if you feel you’re unable to because you’re not understanding the questions or whatever, you just let us know?---Yes.

Do you understand that?---Yep.

So if you want to stop, ask the Commissioner. Do you understand that?---I do.

10 You were then asked, "Can you tell us as best as you can exactly what words Mr Diekman said to you about the purpose of these cheques and not your summary or understanding, but exactly what Mr Diekman said to you?" And you said, "I got it as a written statement from him." "All right. Do you have a written statement?" Answer, "I do." And then the Assistant Commissioner asked, "May I have a look at it, please?" Now was that, having refreshed your memory from that, does that remind you that that document, was it that document trail his recollection of events that you have described as, as the written statement that you allowed the Assistant Commissioner to look at?---I'm uncertain whether it's that one you've presented today.

20 I've indicated that there was a document tendered, it's page 213 and it's labelled as Exhibit C19. And it's the statement of Mr Diekman headed, Charlie's Recollection of the Events in Vegas and it was a single page.

THE COMMISSIONER: Mr Strickland, this is a matter entirely for you but it might be appropriate simply to refer in relation to the pages you wish to refer here to point out any inconsistencies and leave it.

30 MR STRICKLAND: I will, I'll do that. I wasn't going to go through the whole bit I'm just going to go through some particular parts. At page - at the bottom of page 207 at line 36 he - you were asked, "What did he", that's Mr Diekman, "say to you if anything when you first approached him?" and you didn't reply, "He wouldn't have had the statement prepared? No, no, sorry, no. So what did he say? Oh, well he just said I've got things to tell you", question, "Yes, I've got come clean on some cheques that I've taken." Having being reminded of those answers does that refresh your memory as to whether that's what he said?---Not really, no.

Well - - -

THE COMMISSIONER: Your memory then was better than it is now?---
Oh - - -

40 Is that right, Mr Roche?---No.

Your memory then wasn't better than it is now? It wasn't better in September 2011 than it is now. Is that, is that what you're saying?---No, your Honour.

I beg your pardon?---Sorry.

I'm just trying to hear what your answer is?---My, my memory is - it's funny when you read something back like that.

Does it give you a surprise what you said?---I'm not sure, I'm happy to - - -

MR STRICKLAND: See this conversation that you're relaying - - -?---
Mmm.

10 - - - you relayed it on 14 September 2011 that was a conversation you - you
have said was said about nine or 10 days before this evidence on 14
September, okay?---Okay.

Well do you accept that?---I have to.

Okay. Well when you gave that answer I've got Mr Diekman saying, "I've got things to tell you, I've got to come clean on some cheques I've taken" - -
-?---Mmm.

20 - - - was that the truth?---As to what he has said?

Yeah. What he's told you?---I don't know.

30 You then say, "And what else did he say?" and you say, "And so we just covered that off as to what, I had to then go and check internally as to have a look to obtain these documents." Okay. Now then you were asked this question at line - page 208 line 31, question, "All right. Where did he tell you that Mr Ciot and his partner had travelled to using these cheques? Where was the trip that he was shouting him?" and your answer was, "I think that it was South Africa or England." Do you see that?---Yes.

Well if that's the case and was that the truth?

THE COMMISSIONER: Well I think you better just put the question differently.

MR STRICKLAND: Certainly. Is it the - thank you, your Honour, Commissioner.

40 Did Mr Diekman tell you that Mr Ciot was being shouted a trip with his partner to go to South Africa or England, is that what Mr Diekman told you?---I believe so, yes.

I beg your pardon?---Yes.

If that is the case why did you record in your first version or your second version - sorry. When do you say he said that to you? Was that after the first version or before the first version?---I can't recall.

Excuse me. So can I just give you one last opportunity, are you sure that Mr Diekman never said to you words to the effect of look, I've got to come clean about some cheques? Forget, forget this particular context but after you had gone to ICAC - - -?---Mmm.

- - - on the - at any stage after that did Mr Diekman say to you look, I've got to come clean to you about some cheques?---Again now I just can't recall what he said last year, you know.

10 But surely if he had said something like that that's something you wouldn't forget? It's a pretty dramatic thing to say in the context of you being investigating by ICAC?---Yes, I understand, I can't recall it now, yeah.

But you don't doubt that he said something like that to you given that you've told the Commission that nine days - - -?---I can't confirm it now, yeah.

I just want you to be - I'd like to show you, I'll put this aside for the moment and I just want to show you some other cheques, 3692, 3693, 3694,
20 if I could show you the two, I think it's Poller 152 and Poller - sorry, Poller 152, 154, 153 and 155, I'll just show them to you in order. First if I could just show you cheque, the cheques for 3692 please which is dated 4 August, 2009. Do you recognise - if you first go to the cheque, do you recognise your signature on the cheque?---Yes, I do.

And that's another cheque for \$10,000 made payable to cash, is that right?
---Yes.

30 And if you go to the cheque butt for that amount it's got detail Art Gallery, do you see that?---Yes.

I tender those two pages.

THE COMMISSIONER: Yes. The two, the page containing a cheque stub for a cheque of \$10,000 in favour of the Art Gallery - I withdraw that. The cheque for \$10,000 with the payee as cash and the detail as given as Art Gallery together with copies of the cheque itself and the front and back constitute Exhibit R21.

40

#EXHIBIT R21 - TWO CHEQUES (3691 & 3692) AND CHEQUE STUBBS

MR STRICKLAND: If I can show you two further cheques please, that is cheques 3693 and 3694, that should be Poller 153, 155 and 156. Now, I'm first showing you, if you go to page 155, cheque 3693, have you got that?
---Yes.

Do you recognise your signature there?---Yes.

Both at the top and the bottom of the cheque?---Yes.

And that is, that cheque is also made payable to cash and on the cheque butt if you go to page 153 you'll see it's to the Art Gallery, do you see that?
---Yes.

10 If you go now to cheque 3694 dated 4 August, 2009 in the amount of \$10,000, do you see that?---Yes.

And that's your signature on both top and bottom?---Yes.

And that's also, if you look at the cheque butt, also on 153 made, cash detail, Art Gallery, is that right?---Yes.

Now, do you know why \$30,000 of cheques was written on that date payable for cash?---No.
20

Do you know why the cheque butt refers to the payee being Art Gallery?
---No.

THE COMMISSIONER: The detail being Art Gallery.

MR STRICKLAND: I'm sorry, I beg your pardon, I'm sorry. The detail being Art Gallery?---No.

Do you know if 30,000, if you authorised \$30,000 worth of cheques to be paid to someone relating to the Art Gallery project?---Repeat the question.
30

Did you authorise \$30,000 of cash cheques to be payable to someone relating to the Art Gallery project?---I'm a signatory on these three cheques.

I know that. And therefore as a signatory you authorised the payment of them. Correct?

THE COMMISSIONER: But I'm not sure if you're saying, did you know that these cheques had something to do with the Art Gallery?---That I don't know.
40

MR STRICKLAND: Did Charlie Diekman ask you for cash cheques totalling \$30,000?---That I can't recall.

Can you give any information at all about what that – what those three cheques were for?---No.

THE COMMISSIONER: Are you tendering them?

MR STRICKLAND: I tender the - - -

THE COMMISSIONER: Well R22 is constituted by two cheques for \$10,000, both dated 4 August, 2009 and the cash butt, the cash, the cheque butts for those two cheques which both state as detail the New South – the Art Gallery.

10 **#EXHIBIT R22 - TWO CHEQUES FOR \$10,000 BOTH DATED 12 AUGUST 2009 AND CHEQUE BUTTS FOR THOSE TWO CHEQUES**

MR STRICKLAND: And can I show you Poller 157 and 158, remittance advices? Thank you. I'll show you three remittance advices, Poller 157, 158 and 159. And now - - -

THE COMMISSIONER: Are you tendering those?

20

MR STRICKLAND: I tender those.

THE COMMISSIONER: R23 is constituted by three remittance advices, each for \$10,000 and each dated 4 August, 2009.

#EXHIBIT R23 - THREE REMITTANCE ADVICES EACH FOR \$10,000.00 AND EACH DATED 4 AUGUST 2009

30

MR STRICKLAND: I also tender a general ledger for Kings Security, it's entitled General Ledgers (Detail) from 1 August, 2009 to 31 August, 2009.

THE COMMISSIONER: So this is, you're tendering that?

MR STRICKLAND: I tender, I tender that.

THE COMMISSIONER: Yes, the extract from Kings Security general ledger from 1 August, 2009 to 31 August, 2009 is R24.

40

#EXHIBIT R24 - TRANSCRIPT OF MR ROCHE'S EVIDENCE TENDERED IN COMPULSORY EXAMINATION ON 14 SEPTEMBER 2011

MR STRICKLAND: Now, if the witness could be please given those last, the exhibits.

THE COMMISSIONER: R24.

MR STRICKLAND: R24 and R23. If the witness could be given R21, 22, 23, 24. Now, if I could just ask you about the remittance advices.

THE COMMISSIONER: From previous replies, Mr Strickland, I just don't think that Mr Roche knows anything, is not going to remember anything about this.

10

MR STRICKLAND: There's a point to this if you just bear with me for one moment.

THE COMMISSIONER: Yes, very well.

MR STRICKLAND: R23, what I wanted to ask you is this. You see there there is a record which says in relation to those three cheques, 3692, 3693, 3694, that they refer to Art Gallery install - project management, is that right?---Yes.

20

And are you, did you ask anyone from the finance team in Kings to record those details or something to that effect in relation to those two, three cheques?---No.

Are you aware whether Kings Security - do you have anything - I withdraw that. Did Kings Security pay any of its suppliers in relation to the Art Gallery in cash?---Not that I'm aware.

30

And there'd no reason to do so, would there?---No, I don't believe so.

If there were any payments to Kings' subcontractors they would be done by way of cheque payable, referring to that particular contract, contractor and particular invoice number or by bank transfer, internet bank transfer, is that right?---Yes, yeah.

And have you investigated whether these three cheques were in fact related to the project management of the Art Gallery project?---No.

40

Is there any reason you haven't done so?---We haven't had the information.

When you say we haven't had the information do you mean you haven't seen, you haven't seen the cheques?---I haven't see any of this information.

Never before?---You've had it.

I'm just asking you, have you not seen any of this information?---No.

You haven't seen the cheques or the cheque butts or these remittance advices, is that right?---No.

So you did know though, didn't you, on 14 September, 2011 that there were three cheques on 4 August, 2009 made payable for cash that said details Art Gallery, correct?---I'm uncertain.

THE COMMISSIONER: I beg your pardon?---I'm uncertain.

10 MR STRICKLAND: Well, if you had known that that would have given you a lot of concern wouldn't it given that there would be, as you've just said, no legitimate reason for Kings to pay cash to any of its subcontractors in relation to the Art Gallery project, is that right?---Sorry, the question?

I beg your pardon?---The question.

That was my question. Do you want me to repeat it?---Thank you.

20 If you had known on 14 September, 2011 when you did your compulsory examination that there were three cheques made out to cash relating to the Art Gallery where it says details Art Gallery that would have caused you concern, wouldn't it?---Yes.

And irrespective of whether you had the bits of paper in your hand or cheques or the cheque butts or remittance advices, if you had that concern you'd naturally, as the managing director of the company, would have made inquiries as to whether those cheques were actually paid for project management of the Art Gallery or for some other reason, wouldn't you?
---Yes, but we've been unable to do so, yeah.

30 And why have you been unable to do so?---Not having the information.

Well did you ask Mr Diekman for example about those three cheques?
---No.

Why not?---I had no information to substantiate.

40 Well let me remind you of what you were asked at the compulsory examination. If the witness could be shown that document again. If you go to page 217. So you were asked at line - if you go to line 10 and I'll read this it says; "Commissioner, I'm now going to show the witness exhibit C6 together with the copy of the general ledger that he has produced today. I have a copy of C6 for the witness. Mr Roche, can I ask you first of all to look at the cheque butts that you've been given for cheque numbers", and then I - same three cheques I've been asking about 3692, 3693 and 3694. And you were asked a number of questions about those cheques.

THE COMMISSIONER: You've read that?---Yeah, I tried to, yeah.

MR STRICKLAND: And, and, and if you go over to - if you go to 219.

THE COMMISSIONER: Is it correct that you were the project manager for the Art Gallery project, Mr Roche?---Yes, Commissioner.

MR STRICKLAND: If you go to page 219, you see at the top of the page that you were shown the general ledger and remittance advices in relation to those three cheques. Do you see that?---Yes.

10

And you were asked some questions about that?---Ah hmm.

About, about both the general ledger and the remittance advices?---Yeah.

So as at the, as at 14 September 2011 you had information - you were given information about three cheques that they were \$30,000 worth of cash cheques made payable - sorry details Art Gallery and you were shown the general ledger which you have - which has been tendered here together with the remittance advices which refer to the cheques being payable for install project management, correct?---Yes.

20

And in fact if you go to 219 you were asked this question at line 10, "Well", question, "Were you looking into whether or not they were in fact related to the project management of the Art Gallery?" answer, "Correct." Do you see that?---Yes.

Was that answer the truth? Were you in fact looking into whether or not those three cheques were related to the project management of the Art Gallery project?---With what information we had, yeah.

30

So you did look into did you?---Mmm. Can't recall.

You can't recall. Well by looking - but surely the most obvious step in looking into it would be to ask Mr Diekman about those three cheques?---Mmm.

Wouldn't it?---Yes.

But you didn't do so?---No.

40

And can I suggest you didn't do so because you knew what the answer was?---No.

Well why, could you have any explanation as to why you wouldn't take that obvious step in inquiring into whether those three cheques were in fact paid for project management of the Art Gallery?---Ah hmm.

Mr Roche?---Sorry, the question?

Do you have any explanation for why you didn't take the obvious step of asking Mr Diekman whether those three cheques had anything to do with the project management for the Art Gallery?---No.

It's the case isn't it that you did not find any – is it the case that you in fact knew that those, that those three cheques made out to cash were used for an improper purpose?---No.

- 10 Well if that's the case why didn't you take any investigation as to where those three cheques actually went to, that is the cash?---I haven't been able to do so yet.

You haven't made any effort I suggest have you?---We've been waiting on the return of information from yourselves.

You don't need to wait, wait for the return of information to ask Mr Diekman do you?---No.

- 20 Can I ask you why you signed three cheques payable for cash for \$10,000 each as distinct from one cheque for \$30,000?---I don't know.

Well you must have some explanation, Mr Roche?---I don't know.

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

Well were you told to do that?---I can't recall at the time.

- 30 What's the magic in the figure \$10,000?---I don't know.

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

I'll just show you two other emails. Before I do, do you know whether any of that money, the \$30,000 cheque went to Mr Paul?---No, I don't.

Were you not curious to know where it went after you, after you were examined by them at this Commission? Didn't you want to know what happened to the \$30,000 from my company?---I didn't look into it.

- 40 Is that because you didn't want to know the answer if you did look into it? ---No.

Well then do you have any explanation as to why you didn't want to look into it when you in fact told the Commission you were inquiring into it? Do you have any explanation at all?---Again we were waiting.

That's your explanation is it?---Yep.

And you've admitted that that explanation does not answer why you didn't ask Mr Diekman does it?---No.

And you have no explanation for that do you?---No.

10 Excuse me. If I could show you some – a couple of chain of emails dated 25 August, 2011, Art Gallery 2, pages 301 to 303. And if I could just take you to the beginning of that email chain at 302. Now this appears to be an email chain – this is an email chain between yourself and Sue Roche. Is that correct?---Yes.

And who is Sue Roche?---My wife.

On 25 August, 2011 at 10.16am, this is the bottom of page 302. Have you got that?---(No Audible Reply)

20 You've said, can you arrange with the bank to get \$7,800 out. Thanks. And then she's replied that same day at 11.06am, will get today after you come home. Do you see that?---Yes.

All right. And then you go over the page, you've written at 11.28 pm, "Well, you need to ring, arrange with NAB", do you see that?---Yes.

And then she's written, "Have done so. I spoke to a customer service person in SA, in South Australia, who answered the general inquiries numbers and he knew my name the cash girl." Is that an exchange between, an email exchange between you and your wife?---Yes.

30 I tender those emails.

THE COMMISSIONER: The string of emails ending with an email from Mrs Roche to Mr Roche on 25 August, 2011 is Exhibit R25 of Exhibit 2.

#EXHIBIT R25 - STRING OF EMAILS ENDING WITH AN EMAIL FROM MRS ROCHE TO MR ROCHE DATED 25 AUGUST 2011

40 MR STRICKLAND: Now, could I - now can I show you another couple of emails, this is Art Gallery 304, 305, emails dated 30 August, 2011. If I could just go and start with the first in time at the bottom of page 305. You've written to your wife on 30 August, "Did you get 10K out of the bank instead of the amount requested", can you see that?---Yes.

And do you agree that relates back to the previous email I've referred you to where you've asked her to get \$7,800 from the bank?---Ah - - -

Or you're not sure?---I'm not sure, yeah.

You've just go to - I'm afraid you have to answer so everyone can hear you.
Is that not sure?---Sorry, not sure.

Your wife has then replied, "Yes" at 4.29pm, correct?---Yes.

10 Then if you go the next page to 304 you've written to her some 20 minutes,
28 minutes later, "All I need is the red flag raised. Never get 10K, always
an odd amount so they don't check." Can you see that?---Yes.

And then she's replied, "You've never said that before. It's always been get
more for home, sorry." Is that an email exchange between you and your
wife?---Yes.

I tender that string of emails.

20 THE COMMISSIONER: That's the one that ends on 30 August, 2011 isn't
it?

MR STRICKLAND: At 17.44, that's right.

THE COMMISSIONER: Yes. The string of emails between Mr and Mrs
Roche with the final email being 30 August, 2011 from Mrs Roche to Mr
Roche is Exhibit R26.

30 **#EXHIBIT R26 - EMAIL FROM MRS ROCHE TO MR ROCHE
DATED 30 AUGUST 2011**

MR STRICKLAND: So, Mr Roche, have you got Exhibit R26 there, that is
have you got the 30 August, go to the first page which is 3.04 and the email
you wrote at 4.58pm, you wrote, "All I need is the red flag raised. Never
get 10K, always an odd amount so they don't do a check." Why did you
write to your wife "never get 10K, always an odd amount so that they do not
check"?---I'm not sure.

40 Who did you mean by they when you write "so that they don't do a check"?
---I'm not sure.

Well, this was written some 10 months ago, wasn't it?---Mmm.

And you're saying you can't remember why you wrote the words you
wrote?---Correct.

Well, you knew at this stage that this Commission was investigating Kings
didn't you?---August, around that time, yes.

You knew that, didn't you?---Yes.

So when -does the word "they" in that email refer to the Commission or Commission investigators?---I'm not sure, no.

Well surely you can explain to this Commission why you told your wife in fairly summary terms never get 10K? Surely you can explain that, you wrote it?---No.

10

What did you mean when you said, "All I need is the red flag raised"? What does that mean?---I can't recall.

Are you being honest when you say you can't recall what any - - -?---I can't - - -

- - - what any of these words mean in this email?---Yeah.

I beg your pardon?---Yes.

20

You see isn't it the case that you knew that the \$10,000 cash cheques that Kings had paid - that you had authorised on numerous occasion was for improper purposes?---No.

Do you know why you asked your wife for \$7800?---I can't recall why, no.

When your wife wrote to you or emailed you on 25 August that my name is the cash girl - - -?---Mmm.

30

- - - is that because she had - she often used to get out cash at your request? ---Don't know.

Well, Mr Roche, you must know whether she would get out cash at your request often?---She did when we built our house.

So that related to the house did it?---Not sure.

40

Could the witness please be shown Poller 319. I'm sorry, I beg your pardon, might I apologise Poller - did I say 239 (not transcribable) I'm sorry I don't know why I said that. Poller 239, sorry. Email 13 May 2009. There's an email from Charlie Diekman to Mr Poller copy to you and the attach - there's an attachment which is from Scooter Central. Now did you ever see this email from with an attachment from Scooter Central being a tax invoice to Kings in relation to a Vespa motorcycle or scooter to be registered to Robert Huskic?---I don't think so. I know it's got my name on it.

You don't think you've see that?---No.

The top email - - -?---Mmm.

- - - which contains the attachment is copied to you. You haven't see that?
---No.

Did you ever - did, did you know that Kings had received a tax invoice for a Vespa scooter for Mr Huskic?---Don't know whether we received the invoice but obviously we have, yeah.

10

What I'm asking you is did you know that, did you know at that time 2009 or that, that Kings had arranged for the delivery of a scooter or paid for the delivery of a scooter to Mr Huskic?---I'm uncertain about this, yeah.

I tender that email together with the attachment.

THE COMMISSIONER: The email of 13 May, 2009 together with the attachment is R27.

20

#EXHIBIT R27 - EMAIL FROM MR DIEKMAN TO MR POLLER AND ATTACHMENT DATED 13 MAY 2009

MR STRICKLAND: R27?

THE COMMISSIONER: R27.

30

MR STRICKLAND: Thank you. If the witness could be shown, I think AHS 215, 215 to 216, email of 23 June, 2009. If I could just start you at the bottom email, please, email 216. I'm sorry, 23 June, 2009 4.04pm Mr Theissen sent you an email, so have you read that email from Mr Theissen to you?---Yes.

And then if you go to the next email from yourself to Mr Theissen, it begins at 215. Do you remember writing that email to Mr Theissen?---Yes.

And you wrote at the - you referred to having, someone's got a 20k problem and it ain't me. Do you recall that?---Yes.

40

And what did that refer to?---Q Video were saying that the camera housings were not part of the quote.

Yes?---And I'm saying well I'm not paying for them.

Right?---Yeah. Somebody's got a 20k problem.

Right. Thank you. Then you go to the top email from Daniel Paul to Mr Diekman copied you, it looks to me like a 20k problem could be increased to 50k, spread around and the problem would vanish in an instant. Any volunteers? I can see the sharing of money might quieten down this little fracas quite quickly?---Mmm.

What did you understand Mr Paul meant by that email?---I didn't understand what he meant.

10 No idea?---No.

What did you understand – in what way could the 20k problem be increased to a 50k problem?---That's what I didn't understand.

Well did you, did you ask him?---No.

20 THE COMMISSIONER: It would mean wouldn't it that it was – the 20k was increased to 50k, somebody would have to pay 50k instead of 20. That 50k would be spread around and nobody would be unhappy. Isn't that what it means?---It doesn't make sense.

Well I can see the sharing of money might quieten down this little fracas. What he's saying is if we have \$50,000 to share amongst all of us, the problem would go away. Is he saying that?---It still doesn't make sense.

Well you just charge the client \$50,000 more and the client pays the 50,000 and shares between all the people who knows the client who doesn't know pay. Isn't that what he's suggesting?---You can't do that, it's a lump sum contract.

30 Well it could be a variation?---No.

MR STRICKLAND: Was there a variation to your knowledge?---No.

Do you know if anything flowed from the email from Mr Paul to Mr Diekman, copied to you? Did anything happen as a result of that suggestion?---I'm not sure what eventuated out of that.

40 I tender that chain of emails.

THE COMMISSIONER: R28 is the string of emails, the last one being 23 June, 2009 concerning updated equipment at the Art Gallery.

#EXHIBIT R28 - EMAIL FROM MR PAUL AND OTHERS WITH SUBJECT LINE "UPDATED EQUIPMENT ART GALLERY EQUIPMENT LIST"

MR STRICKLAND: If I could show you another email, it's Financial 108, an email from Mr - from yourself to Mr Diekman. Now, if I could just take you to the bottom email you say I am owed 42 - - -

THE COMMISSIONER: No, that's - - -

MR STRICKLAND: Sorry, Mr Diekman says to Mr Roche, I am owed 42.5 - sorry, I withdraw that. I tender that email or those two emails.

10

THE COMMISSIONER: One page containing the two emails, the last of which is dated 10 November, 2009 from Mr Roche to Mr Diekman is marked R29 and it is an exhibit.

#EXHIBIT R29 - TWO EMAILS, THE FIRST OF WHICH IS SENT FROM MR DIEKMAN TO MR ROCHE DATED 9 SEPTEMBER 2009

20

THE COMMISSIONER: Who's John? "Time to sit down with John and tell him a few stories"?---Probably John Marinucci.

John Marinucci is it?---Yeah, mmm.

MR STRICKLAND: If I can just ask you about the first email in time at 4.51pm. You - Charlie Diekman wrote to you, "I am owed 42.5K, I've paid out to Dan, Terry, Thakral, 175 Liverpool Street, 5K races, UWS." Now, I take it that because you replied to that email in the way you did you understood what Mr Diekman was writing, is that right?---I can't recall.

30

THE COMMISSIONER: I beg your pardon?---I can't recall.

Do you understand now?---Oh, some of it.

What do you understand?---(No Audible Reply)

Mr Roche, what do you understand? You said you understand some of it so what part do you understand?---Well, he says he's owed some money.

40

Yes, Mr Strickland.

MR STRICKLAND: Well, he said I've paid out to Dan. Did you understand that to be Dan Paul?---Potentially, yes.

Potentially?---Possibly, yes.

THE COMMISSIONER: There's no one else?---No.

It couldn't be anyone else, could it?---No.

And do you know why he paid out money to Dan Paul?---No.

Did you ask him?---No.

Do you know who Terry was?---No.

10 Do you know why he paid, do you know why he paid out money to a person called Terry?---No.

Do you know who Thakral was?---It's a building.

I beg your pardon?---It's a building.

Right. Do you know why he paid out money in relation to Thakral?---No.

20 What is the reference to "175 Liverpool, 5K races", do you know what that refers to?---No.

What about UWS, do you know what that refers to?---No.

The "I am owed 42.5K" relates to this equity account or directors account between the two of you, is that right?---Sorry, the question?

You gave some evidence I think yesterday following an email in May 2009 Mr Poller created a director equity account or spreadsheet?---Yes.

30 This - you knew that this email related to that didn't he - didn't, didn't you? ---No.

You didn't know that?---(No Audible Reply)

When you said, I am forty two and a half - when he says, "I am owed 42.5K" did you understand that that meant that Mr Diekman had paid forty two and a half thousand dollars from his personal account or his personal money and he wanted that to be repaid by Kings?---(No Audible Reply)

40 You must have understood that was the essence of that email?---Unsure, yeah, yeah.

But you'd said at time to sit down with John and tell him a few stories. John was the accountant wasn't he?---Yes.

So you knew that you had to go and tell the accountant a few stories. What were the stories going to be about?---Don't know.

That was the conceal the truth wasn't it?---Don't know, I can't recall.

MR STRICKLAND: You really have no idea do you?---Mmm.

Mr Roche?---No.

10 Mr Roche, you know perfectly well don't you that Mr Diekman spent a lot of Kings money, money from his own account in relation to projects, in relation to people who are influential, in relation to consultants and he wanted that money which he saw was being beneficial for Kings to be repaid by Kings. You knew that didn't you?---(No audible reply)

Mr Roche?---(No audible reply)

Can you just tell us the truth?---(No audible reply)

THE COMMISSIONER: It doesn't help just to - - -?---Mmm.

20 - - - just to remain silent, Mr Roche, you've actually got to say something?
---I don't know what he was up to.

MR STRICKLAND: It says - Mr Diekman says, "Also still owe 10K to Thomo." Who was Thomo?---Don't know.

What that refers to?---No.

"And we'll have another 12K to come up with the Defence Job." Do you know what referred to?---2009, no.

30 THE COMMISSIONER: I beg your pardon?---Not sure what he meant by Defence job.

MR STRICKLAND: In relation to Thomo there was a person called Paul Thompson wasn't there?---Yes, yes.

He worked for Q Video didn't he?---Yes.

40 And he rendered a lot of assistance to Kings in relation to the successful Art Gallery bid didn't he?---No. Tony Theissen helped.

And, and Mr Thompson didn't?---Not really.

So Thomo to your knowledge didn't refer to Paul Thompson of Q Video?
---Could, I don't know him.

Then it says, "And another 5K UWS." What did that refer to?---Don't know.

Well why, why would Mr Diekman be paying \$5000 to UWS?---Not sure.

When relation to UWS?---(No audible reply)

THE COMMISSIONER: You certainly seem to know what he was referring to when he sent you an email on 10 November. You seemed to understand it very well then. Do you agree?---(No audible reply)

Do you mind answering?---I'm sorry. The question?

10

MR STRICKLAND: The question was you knew what Mr Diekman was referring to on 10 November 2009 when you replied, "Time to sit down with John and tell him a few stories."?---Telling him that he needs to sit down with John.

Well you certainly didn't say in the email anything like what are you talking about or what, did you?---No.

20 See where the reference to Terry was that a reference to Terry Yallouris?
---Could be.

Terry Yallouris who is the Australian representative of Pelco?---Yeah, well was.

Yeah. Was?---Mmm.

Didn't you know that the reference for Terry was a reference to him?---No.

30 Because Terry Yallouris from Pelco had done you a great favour hadn't he in relation to dropping the, the price for Pelco to assist you in getting the Art Gallery tender. Isn't that right?---I don't know what his favour was, no.

Well are you saying you have no idea that according to Mr Diekman what Mr Diekman had told you Pelco had offered to drop its price in relation to the Endura 2 CCTV cameras?---I can't recall. He was negotiating with him.

You knew, you knew he was negotiating with someone from Pelco didn't you?---Yes.

40 And did you know anyone else from Pelco Australia other than Terry Yallouris?---A few other people, but no.

He was the person wasn't he?---Yes.

He was the man that Kings negotiated with?---Yes.

THE COMMISSIONER: This was after you'd got the tender or before you had – after you had submitted the tender you were negotiating with Pelco to drop the price?---I don't know.

So when – do you accept that, I mean to use your words, that you were negotiating with Pelco?---I wasn't, no.

Well Kings was?---Charlie was, yeah.

10 Charlie was, to drop the price?---Whether – get the best price.

For the Art Gallery job?---I presume so.

That is after you'd already submitted the tender?---I don't know.

MR STRICKLAND: See is it the case that you did in fact, you and Charlie Diekman did sit down with John Marinucci and told him about practice that Kings had in relation to cash payments?---I can't recall whether we did.

20 And Mr Poller was present then wasn't he, by phone?---Again, can't recall.

Do you recall having any discussions with Mr Marinucci, either yourself or discussions in your presence about the practice of Kings making out cheques payable to cash?---May have, yeah.

Well there's no question – he began I think you'll accept in August – he began working for Kings in August 2009 didn't he?---I'm not sure of the date, but, yeah.

30 All right. If you accept that then there's no doubt that after, there's no doubt that after Mr Marinucci began working for Kings you continued – Kings continued with the practice of writing out cheques payable to cash? ---Yes.

And Mr Marinucci had to be brought into the loop about that didn't he? ---Yes.

As the finance manager. Correct?---Yes.

40 So it follows doesn't it that you did sit down with him and tell him about that matter?---I may have, yeah.

Well either you did or Mr Diekman did. Do you accept that?---Yes.

And did you tell Mr Diekman to do that or did Mr Diekman tell you to do that or did you both do it?---I don't know.

THE COMMISSIONER: Is your answer you don't know?---Mmm.
Correct.

MR STRICKLAND: Well I suggest that you, Mr Diekman, Mr Marinucci in the presence, telephone presence of Mr Poller told him about the practice of making – of Kings making cash payments to certain players, certain people?---I can't recall.

10 Or the practice of Kings giving gifts or benefits to certain key players or people?---I can't recall.

I think I'll tender that email.

THE COMMISSIONER: Yes, that's R29.

MR STRICKLAND: Could the witness please be shown an email from Mr Roche to Mr Marinucci dated 22 December, 2009, 8.06am. Financial 115. It's been arranged a little differently so I'll, Mr Commissioner, I'll just tender some documents in the way they've been arranged.
20

THE COMMISSIONER: Yes.

MR STRICKLAND: Which is a bundle of documents, I'll describe them. Financials 113 to 120 and they're - they are a cheque 308 - 3806 and a cheque butt that's for 9650.

THE COMMISSIONER: Sorry. Can you just give me that number again?

MR STRICKLAND: Cheque 3806 dated 21 December 2009 plus a cheque
30 butt in that same amount, that's the first. The second is an email from Mr Roche to Mr Diekman, sorry to Mr Marinucci copy to Mr Diekman dated 22 December 2009. You don't have that do you? Okay. I'm sorry.

Sorry. I'll go back a bit. An email from Mr Roche to Mr Marinucci dated 22 December 2009 there's an email chain. Then an email from Mr Diekman to Mr Marinucci dated 23 December 2009 with a cheque dated 3830 and 38 - I'm sorry, 3829 I beg your pardon and 3830.

THE COMMISSIONER: These are all in - - -
40

MR STRICKLAND: It's in the one bundle.

THE COMMISSIONER: They're stapled together.

MR STRICKLAND: Yes. The one bundle.

THE COMMISSIONER: Yes. The documents Mr Strickland has described as forming part of one big bundle the last document or the document on top

of the bundle be two cheque stubs and one, one from Chubb Security in the sum of \$9650.30 is exhibit R30.

#EXHIBIT R30 - BANKING RECORDS AND EMAILS RELATING TO THREE PURCHASE ORDERS CREATED WITHIN THE WATERHEN JOB FROM MR ROCHE DATED 21-23 DECEMBER 2009

10

MR STRICKLAND: Now if I can just go to - have you got that bundle, Mr Roche?---Yes.

Just go to page 115. I just want to ask about the email from Mr Marinucci to you on 21 December 2009. You say, "Peter", well he says, "Peter, I draw two cash cheques last night for those amounts. Peter, are you happy with the split below. If you want we can make number 3 out to EOS Security", and then over the page he's got three cheques in that amount. Do you see that?---Yes.

20

And then you have in your email to him dated 22 December 2009, "You said John, I've created the three POs within the Waterhen job for these orders and left them on your desk. Peter." Do you see that?---Yes.

And PO is a purchase order. Is that right?---Correct.

And did that relate to a genuine job?---The Waterhen job?

30

No. Were the three purchase orders that you created genuine?---No.

In what way were they not genuine?---They were POs just made up inside a job.

Right.

THE COMMISSIONER: What, so that you could as part of the process whereby you would withdraw cash?---Yes.

40

MR STRICKLAND: And why did you do that?---I'm not sure.

You must - - -

THE COMMISSIONER: (not transcribable) to conceal the fact that you were withdrawing cash?---Yes, yeah.

But what did you need the cash for?---I'm not sure.

MR STRICKLAND: You must have some idea, Mr Roche, why you need the cash for?---(No audible reply)

Mr Roche, what's the answer, no?---Correct.

Well did - - -

THE COMMISSIONER: Who's Tim Maas?---Ex-Honeywell.

10 I beg your pardon?---Ex-Honeywell.

What was his job there?---Sales rep.

MR STRICKLAND: Well were you asked to - was this decision to conceal the payment of cash - the withdrawing of cash from Kings was that your decision or was that Charlie Diekman's?---Mr Diekman.

Right. And he asked you to do so, is that right? Is that your answer?---Yes.

20 Did you tell you why he wanted you to do that?---No.

Did you ask him?---No.

Did you not ask him because you did not want to make the inquiries because you feared that if you had made those inquiries you would have known that it was, the cash was for an improper purpose?---I'm not sure.

Is there any other explanation for not asking him?---No.

30 There are, there are many, many times during the last two days when you have said that you did not ask Mr Diekman extremely elementary questions about why he was taking out cash from the company, is that right, is that true?---Yes.

Were you afraid of Mr Diekman?---No.

Why did you hesitate when you gave that answer?---(No Audible Reply)

Mr Roche?---Sorry?

40

Why did you hesitate when I asked you?---I didn't realise I did.

So you weren't scared of Mr Diekman?---No.

Were you worried about asking him questions about where was the cash going to?---Possibly.

And why would you possibly have been worried?---I'm not sure.

Is Mr Diekman a dominant personality?---Maybe.

Did he tend to dominate you?---No, no.

Why do you say maybe, in what way?---(No Audible Reply)

Are you intimidated by Mr Diekman?---No.

10 Not at all?--- (No Audible Reply)

Can I show you another email from yourself to Mr Diekman, it's Finance 126. It's an email from - if I can begin at the first one from Mr Marinucci to yourself of 20 February, 2010 3.44, subject "9,900 cash cheque to Charlie. Pete needs some paperwork to cover those project costs." Do you know what the reference to "those project costs" were?---No.

20 You've then written the reply, "Please advise what this was for, it has to stop." What did you mean when you said, "It has to stop"?---Just asking for cash cheques.

And why did you write that at that time?---I can't recall why.

Well can you say now why you said to Mr Diekman that he had to stop asking for cash cheques? Mr Roche?---Sorry, the question, why - - -

Do you recall now why you asked Mr Diekman to stop asking for cash cheques?---Just stop - - -

30 I beg your pardon?---Just stop.

Did Mr Diekman come and talk to you about the email or your statement, your emphatic statement that it has to stop?---I don't believe so.

You never had a discussion following sending this email?---No, I can't, I can't recall whether we did.

I tender that email.

40 THE COMMISSIONER: The one page containing two emails, the top of the page is an email from Mr Roche to Diekman dated 21 February, 2010, the pages, R31.

#EXHIBIT R31 - STRING OF TWO EMAILS, THE TOP OF WHICH IS AN EMAIL FROM MR ROCHE TO MR DIEKMAN WITH THE SUBJECT "9900 CASH CHEQUE TO CHARLIE...." DATED 21 FEB 2010

MR STRICKLAND: If this could be shown, I think it's Financial 130, email from Charlie Diekman to Greg Poller dated 30 April, 2010. Do you recall receiving this email?---Yes.

I beg your pardon?---Yes.

10 Right. And what is it about this email – why do you recall receiving this email?---I just recall it.

Well Mr Diekman writes, I paid \$72,000 cash, that's what you understood by k. Is that right, thousand?---Yes.

\$72,000 cash for AG and Gap, et cetera out of personal funds. What did you understand was – where did the cash go for the Art Gallery, that is the cash from his personal funds? Why did he, why did he do that?---I don't know.

20 Did he ever tell you?---No.

Did you ever ask him?---I think I did.

Right. And what did he say?---I don't think he answered me.

You asked him after receiving this email. Is that right?---I can't recall.

30 Did he send you this email because he wanted his \$72,000 credited into his directors account? Is that why he sent it? Is that the purpose of, of the email as far as you understood?---Oh, directors equity, yes.

Yes. Well before, surely before you would agree to credit his account you would want to know where the cash went for the Art Gallery to ascertain if it genuinely should be credited to his directors equity account. Is that right?---Yes.

So you asked him but he didn't tell you?---Yes.

40 And did you ask him why won't you tell me?---No.

Why not?---I can't recall.

Did you, did you believe that it was – that that payment of cash for the Art Gallery was for an improper purpose?---I don't know.

Did you believe it was, payment of cash to the Art Gallery was for bribes? ---I don't know.

Well did it occur to you that that's what it was for, bribes?---No.

It didn't even occur to you did it?---No.

Did it occur to you that some of that \$72,000 cash went to Daniel Paul?
---No.

THE COMMISSIONER: Who did you think it went to?---I asked him a question.

10

MR STRICKLAND: You asked him what question?

THE COMMISSIONER: Who did it go to?---Yeah.

MR STRICKLAND: And he said I won't tell you?---No.

What did he - when you said where did it go to what did he say?---I don't think he responded.

20 You left with that did you, you asked him the question, he didn't respond, did you leave it at that?---I think so.

What about Gap, Kings had a contract in relation to The Gap, is that right?
---Yes.

And what was that about?---Sorry, what, what was - - -

Well, tell the Commission about The Gap contract?---A project up at The Gap, a camera system.

30

Right. That was for Woollahra Council, was it?---Yes.

And you'd entered that contract before this email. Is that right?---I don't know the timing, yeah.

Well, undoubtedly The Gap, I mean was the, apart from The Gap contract, is there any other reason he would have paid from his own personal funds cash for Gap?---Don't know.

40 Well, did you ask him why he paid cash from his personal account in relation to The Gap project that Kings had?---No.

You didn't even ask him that. Is that right?---I don't know whether I responded to this or not, hmm.

There were two different stages in Gap, weren't there, there was stage 1 and stage 2?---Yes.

And stage 1 was awarded to Kings in, in August 2009, wasn't it?---I'm not sure of the timing, yes.

And Mr Paul was a consultant for The Gap project, wasn't he?---Yes.

So did you ever ask Mr Diekman whether any of that \$72,000 cash was paid to Mr Paul in relation to either the Art Gallery or The Gap contract?---No.

10 Did you believe that some of that cash was paid to Mr Paul in relation to either of those two contracts?---I didn't consider it, no.

THE COMMISSIONER: Are you tendering this?

MR STRICKLAND: I tender that.

THE COMMISSIONER: The page containing two emails, the last one from Mr Diekman to Mr Poller of 30 April, 2010, is R32.

20 **#EXHIBIT R32 - STRING OF EMAILS BETWEEN MR POLLER, MR DIEKMAN AND MR ROCHE REGARDING "DIRECTORS EQUITY" SENT ON 30 APRIL 2010**

THE COMMISSIONER: Mr Strickland, is this a convenient time now?

MR STRICKLAND: I've got two more emails but I'm entirely, I'm entirely in your- - -

30 THE COMMISSIONER: And then that, would that conclude your examination?

MR STRICKLAND: Yes, yes.

THE COMMISSIONER: Yes. Proceed.

MR STRICKLAND: I just wanted to ask one more question about this email. Do you, is it the case that The Gap 2 contract, the phase 2 contract for Gap was awarded on 11 April, 2010?---I don't know.

40 I said 11 April, 2010.

THE COMMISSIONER: 11.

MR STRICKLAND: 2011. Is that right?---I'm not sure.

I withdraw that question?---Yeah.

Could the witness please be shown an email from Mr Roche to Mr Poller, copy Mr Diekman, Financial 131, dated 6 June, 2010. If you go to the first email on 4 June, 2010 on page 133. Mr Diekman has sent you and Mr Poller an email: "As mentioned, I paid 72 thousand in cash and also 10,000 allocated to dividends for projects contractors et cetera. Do you see that?" ---Ah hmm. Yes.

Do you remember receiving that email?---Yes.

10

Okay. And then I'm just going to go to the - I'm not going to go to all aspects of the, of the - this chain of email but do you see at 132 your email to Mr Poller and Mr Diekman the top of the - the first two lines of the email, "I have no issue with the method Charlie's proposing to repay his funds that were used for projects. Only that I'm not a fan of us going back to having wives cars in the business." Do you see that?---Yes.

20

What did you mean when you said I have no issue with the method Charlie's proposing to repay his funds that were used for projects?---I think it applying to the directors equity account.

Yes. What did you - when you referred to his fund that were used for projects that, that was like projects like Art Gallery, Gap et cetera wasn't it?---Mmm, not sure.

That was what the projects were referring to isn't it?---I can't recall.

30

If you just go to the top page 131. You wrote, "Thanks, Greg. I would like all this sorted out this week so that our accounts are clean of irregularities. Charlie, please advise me to the whereabouts of this 82K." Do you recall whether Mr Diekman ever did - do you know what the reference of 82K refers to?---The earlier email.

That is the - that's the 72,000 in relation to Gap and AG et cetera plus an additional 10K, is that right?---Yes.

40

Because this, this chain of emails relates to the last email I showed you about I paid the 72K out of my personal funds for AG, Gap et cetera, correct?---Right.

Do you agree with that, there were - - -?---It appears so, yes.

What did you mean when you said that you wanted to clean your accounts - clean of irregularities?---I'm not sure, yeah.

I tender that chain of email.

THE COMMISSIONER: Yes. Mr Strickland, before I note that there is just this, this reference to Mr Roche helping Kings substantially in the email at the bottom that perhaps could be clarified.

MR STRICKLAND: I'm sorry? You mean the bottom of which - is that page 131?

THE COMMISSIONER: Poller - Mr Poller's email to Mr Roche on 6 June on page 131.

10

MR STRICKLAND: Yes, certainly. I'll deal with that.

See Mr Poller has written to you copy Mr Diekman that on 6 June he said this, "I agree there should be no expenses off book but in some situations where you have helped Kings substantially in a financial way and this is a way to make sure things remain even."

20

THE COMMISSIONER: What I would really like to know is how - is it correct that you've helped Kings substantially in a financial way?---I think I lent some money to the business.

Is that what that refers to?---I think so.

So you, you've lent some money and, and Mr Poller is using the cash payments made by Mr Diekman - he's taken into account those payments to make sure things remain even as he puts it. Is it - is that, is that the - how you understood that?---Yes.

30

All right. All right. The, the string of emails culminating in the email from Mr Roche to Mr Poller of 6 June 2010 is exhibit 34 - R34.

#EXHIBIT R33 - STRING OF EMAILS BETWEEN MR POLLER, MR DIEKMAN AND MR ROCHE REGARDING "CAR" WITH EMAIL ON TOP DATED 6 JUNE 2010

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MR STRICKLAND: Mr Commissioner, there the only questions I had for Mr Roche at this stage. I understand that he will probably be required - - -

THE COMMISSIONER: Yes. We just want to make some inquires about that.

But before I do I just want to ask you one question, Mr Roche, do you have any regrets about what happened? What, what's happened with Kings in all these things we've been hearing about over the last few days?---Yes, Commissioner.

What are those regrets?---My role.

And how do you see it?---Poorly.

Do you see yourself as having been involved in anything improper?
---Potentially.

Is that in relation to the cash payments or something else?---Yes.

10 Cash payments?---Well I'm a signatory.

Yes?---Mmm.

Of cheques involving cash payments?---Yes.

And those are cash payments which have been concealed?---Yes.

And they've been concealed because they're probably being paid to
consultants, at least some of them?---Mmm.

20

Is that right?---(No Audible Reply)

Are you able to answer that?---Yes, your Honour.

Yes, thank you. Just so that we can organise things of witnesses on
Monday, Mr Lloyd are you going to be a long time in questioning?

MR LLOYD: With this witness?

30 THE COMMISSIONER: Yes.

MR LLOYD: I don't think I'll have any questions.

THE COMMISSIONER: Who amongst counsel present today wish to
question Mr Roche on Monday?

MR NAYLOR: Commissioner, at this stage I'm probably thinking I
probably don't want to ask any questions but I'm interested in reserving my
position if possible.

40

THE COMMISSIONER: Til Monday?

MR NAYLOR: Yes.

THE COMMISSIONER: That means Mr Roche comes back just for that.

MR NAYLOR: Perhaps - - -

THE COMMISSIONER: You're entitled to do that.

MR NAYLOR: Perhaps I can, I can indicate to Mr Strickland in the meantime if he is required.

THE COMMISSIONER: All right. All right. Mr Roche, I'm afraid you'll have to come back on Monday, but the likelihood is that you won't be asked any questions?---Yes.

10 And maybe, no. The Commission will adjourn til 11.00am on Monday.

<THE WITNESS WITHDREW [4.07pm]

AT 4.07 PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.07pm]