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25/06/2012

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pp 00443-00491

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

Reference: Operation E09/350

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY, 25 JUNE, 2012

AT 2.10PM

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.

MR LORKIN:: Excuse me, Commissioner.

THE COMMISSIONER: Yes.

MR LORKIN: Lorkin once again for Mr Creary. Just in relation to that
10 suppression order on the address I'm told by other members of the
profession that upon the video recording a street sign was depicted (not
transcribable) the premises and I think I - I'm not too sure if I erred in only
getting a suppression order on the suburb, the street was mentioned as well.

THE COMMISSIONER: Very well. There will be a suppression order on
the street.

**SUPPRESSION ORDER IN RELATION TO THE STREET
DEPICTED IN THE VIDEO**

20

MR STRICKLAND: Mr Diekman, before the 27 February meeting when
you gave the Art Gallery the \$2 million price for the contract, did you know
at that point what the Art Gallery budget was for the contract?---Oh, look
there were, there were a number of different rumours in the industry going
around.

And what were those rumours?---Oh, I think, I think I heard one and a half,
I think I heard two, I think I heard three so, you know, it was just rumours.

30

And where did you hear those figures from?---Just within the industry, the
suppliers and, you know.

Did you ever, did anyone directly tell you?---Not that I can recall, no.

Did you speak to Mr Paul about those rumours?---Not that I can recall.

You certainly asked Mr Paul a number of questions, didn't you, about this,
this contract, this tender?---Oh, yeah, I assume I would have, yes.

40

Yeah. Well, I mean you said to him, look, come on, tell us, what's going
on, didn't you?---Probably not in those words.

I beg your pardon?---Not in those words, no.

THE COMMISSIONER: Words to that effect?---I was probably talking
about what, what they were trying to achieve, yes.

I beg your pardon?---I was probably asking what they were trying to achieve.

MR STRICKLAND: By they you mean the Art Gallery?---Yes.

You wanted - look, Dan Paul was a mate of yours, wasn't he?---Yes.

And you've done business together?---Yes.

10 You've, you've travelled overseas together?---Yes.

And you're, you're the kind of businessman who if you really want something you get it, correct?---Yes.

And you really wanted this Art Gallery contract didn't you?---Yes.

You really, really wanted it, correct?---Yes.

20 And so your mate had some inside information that would have been very useful to you if he shared it with you, correct?---Well, what inside information?

Well, for example, what budget the Art Gallery had to spend on the project for example?---Yes.

And what the other bidders were bidding, their prices?---Well, I don't know how he'd, I don't know how you'd find that out.

30 No. But he'd know wouldn't he?---How?

Well, once he's opened the tender box?---Oh, okay. Sorry, I, I don't know, yeah.

Well, you, you'd, you know that's what he would have access to as a consultant.

THE COMMISSIONER: He was on the Tender Evaluation Committee.

40 MR STRICKLAND: That's right, you knew that, didn't you?---Well, some, sometimes they don't give the tender prices out, I don't know, I didn't know the process, no.

But you knew he was on the Tender Evaluation Committee - - -?---Yes.

- - - because he was there on 27 February meeting?---That's right, yes.

So I want to ask you again you, you said to him as your, as your made, as someone who knew what was going, on, what the Art Gallery wanted, what their budget was, you asked him look, come on, tell me, what's going on?
---Oh, probably if I asked him some questions, I don't know whether he, he wouldn't tell me though.

No, not probably, did you or didn't you ask him questions like that?---Like in - - -

10 Asking him what's going on?---Yeah, what's going on.

Right. And did he tell you what the Art Gallery budget was?---No.

Was he one of the sources of your rumours?---No.

Are you sure?---Yes.

Commissioner, I tender the record of interview of Mr Diekman with Ms Leonie White on 17 March, 2011.

20

THE COMMISSIONER: Yes. The record of interview of Mr Diekman with Ms White is Exhibit D49.

#EXHIBIT D49 - (FORMERLY MFI-4) RECORD OF INTERVIEW BETWEEN MS WHITE AND MR DIEKMAN CONDUCTED ON 17 MARCH 2011

30 MR STRICKLAND: So when you made your \$2 million bid did you know that the budget for the Art Gallery was around \$2 million?---I - well, as I said I heard some rumours around.

But you said - - -

THE COMMISSIONER: About 2 million?---Hey?

40 To the effect that it was 2 million?---Oh, people were saying oh, yeah, they've got 2 million to spend, people - I heard someone say 1.5 and someone else said 3 million so, yeah, when I say someone it was just we'll be sitting around a pub and - - -

Isn't the truth that your, your price of \$2 million was based upon your understanding that that was approximately the Art Gallery budget for the job?---It could have been, yes.

Isn't that the real reason that you dropped your price from 2.69 million to \$2 million, because you had some knowledge, some understanding that you

had to bid close to what the actual budget was?---Well, if I did why wouldn't I have done it the first time?

MR STRICKLAND: Well because you acquired the information in the meantime?---No, not that I can recall, no.

Would you accept that a basis for you putting in your revised bid of \$2 million was you understanding that that was approximately the budget the Art Gallery had? Is that correct or not?---One of the reasons.

10

Yes. Okay. After the 27 February meeting - - -?---Ah hmm.

- - - did you speak to Mr Paul between then and the time you finally got awarded the contract?---Probably.

Did he give you any information about the prices of the other shortlisted tenderers?---Not that I can recall but there were some rumours going around of what they were from the suppliers.

20

All right. And which, which people in the suppliers supplied those rumours?---People from Q Video, from - - -

Which people?---Paul Thompson.

What did Paul Thompson tell you?---Oh, I can't recall the exact words.

Well I'm not after the exact words, more or less what did he say?---You know, I remember him saying that Secom was half a million dollars or something. (not transcribable) half a million dollars but were way cheap. I think, see I don't know whether it was through him that I heard that ACG were around the two and a half mark.

30

Who told you that?---I don't know who it was.

Did Dan Paul tell you the information after the 27 February meeting as to or after 23 February?---Not that I can recall, no.

Well if he did that's something you definitely would have recalled isn't it? ---Well it's four years ago.

40

Yes, but would it be unusual for a consultant to tell you, consult on the Tender Evaluation Committee to tell you the prices of the other bidders? ---Sorry, it would be - - -

Would it be unusual for a consultant to the Art Gallery to tell you as one of the tenderers what the prices of the competitive tenderers were?---Yeah.

Well did he or didn't he?---As I said I don't recall whether he did.

Was the \$2 million revised bid you made in part based upon your knowledge of what the other shortlisted bidders were tendering?---No, no.

Did you know that ACG put in a bid of around \$2 million at the time you put in your bid?---No I didn't, no.

You sure?---Not that I can recall, no.

10 Well did you hear rumours of what their bid may be?---Afterwards.

No, I'm talking about before you put in the \$2 million bid now?---No, no.

Well you've said that in part your bid of \$2 million was based upon your understanding of what the Art Gallery budget was. Did you actually calculate the \$2 million on any other basis?---Well on the basis that Pelco were going to drop their price and on the basis that I wanted the job.

20 But do you agree that Pelco didn't drop their price because they offered a new product, it was the same product wasn't it? It was the same CCTV, the same CCTV cameras they were offering in the first bid on 23 February and when you made your revised price on 27 February?---What they were offering, yes.

Yes. There was no change to the product was there?---I think we put better cameras in when we actually won the job. I think we might have one mega pixel cameras in.

30 No, but between the time – you see you put in your first bid on 23 February, right?---Yes.

\$22.69 million?---Yes.

You dropped your price four days later?---Yes.

In those four days the product had not changed had it?---Not that I'm aware of, no.

40 When you put in your first bid had Mr Yallouris or anyone else told you that, that Endura Version 2 had been released or was, or was just about to be released?---It was always just about to be released.

Right. And when you say always and then on 27 February that was the same story, it was just about to be released?---I can't recall but I remember him saying yes, it's now - it's available, it's released and - - -

Understand, but you just said it was always just about to be released. Did you mean by always that during the whole tender process it was always just

about to be released?---Probably three or four months prior they were talking about releasing it.

What I want to understand is between the time you put in your first bid - - - ?---Yes.

- - - and the time you dropped your price at \$2 million - - -?---Yes.

10 - - - had the situation changed about whether it was just about to be released or whether it had been released?---I can't recall.

When did you know that version 2 had actually been released onto the market, was it after you'd been awarded the contract or before?---Before.

Before the contract?---Before we were awarded the contract.

Before you were awarded the contract?---Yes.

20 And what about before you made your first bid 23 February?---Well as I said it was always just about to be released.

Well then when did you actually know when it was actually - had actually been released?---I, I can't recall any dates.

THE COMMISSIONER: You, you - you've been - it was always known it was - at that time it had been known that it was - that version number 2 was coming onto the market at any time?---Yes.

30 And the question is when you made your bid had it been released or did you make the bid in the belief that it would come onto the market in time for you to undertake the contract?---Well I believe it was coming on the market in time for us to take on the contract, yes.

MR STRICKLAND: Just want to show you some answers you gave at a compulsory examination on 14 May 2012.

THE COMMISSIONER: You'll have to apply for the order.

40 MR STRICKLAND: I'll ask - I ask for a variation of a suppression order in relation to pages 1379 and 1380 of that examination.

THE COMMISSIONER: The suppression relating to pages 1379 and 1380 are Mr Diekman's compulsory examination transcript and will be varied to the extent of the suppression order is uplifted in regard to those two pages.

THE SUPPRESSION RELATING TO PAGES 1379 AND 1380 ARE MR DIEKMAN'S COMPULSORY EXAMINATION TRANSCRIPT

AND WILL BE VARIED TO THE EXTENT OF THE SUPPRESSION ORDER IS UPLIFTED IN REGARD TO THOSE TWO PAGES

MR STRICKLAND: So I'll just - to give you - have you got those pages in front of you?---Yes.

So I'll just take - I'll give you the context. If you go to 1379 line 21. You see the numbers on the left-hand side of the page?---No, I don't have that.

10

I beg your pardon?---Sorry one?

If you go to page 1379 it's the first page?---Yes, yeah.

And go to line 20?---Yes.

And so you're being asked about the 27 February meeting you had at the Art Gallery where you discussed your tender response. Do you see that, that's the first question?---Yes.

20

And then go to line 34. You were asked this, "Did you or anyone in your group submit an alternative costing? Yes. What was the costing? The Pelco." Question, "Well, Pelco was already in? Yes. Your initial tender response? That's correct." Question, "Why would you be submitting another costing for Pelco?" Answer, "Because Pelco offered me a phone call from them saying that pricing has or version 2 has just been released which is an upgraded version of what they had which is now capable of recording or meeting the specification of the original Verint which it had in it and Pelco said they wanted this job, they're going to give not transcribable price, drop it in half whatever, whatever it was just win the job, we need it as a reference site." Do you see that answer?---Yes.

30

The answer as to why you submitted another costing for Pelco was because Pelco had offered you a phone call saying that the pricing it has or version 2 has just been released?---Yes.

But you had that knowledge when you put in your first bid on 23 February didn't you?---Well it was being released, I mean it's - - -

40

THE COMMISSIONER: No, no the pricing, you're being asked about the pricing?---Sorry - - -

MR STRICKLAND: Do you understand?--- - - - say the question again?

Well you see you were asked why would you be submitting another costing for Pelco and you said because of this phone call which was from Mr Yallouris which said that the pricing has or version 2 just been released? ---Mmm.

Which was an upgraded version et cetera of - - -?---Yeah.

But that information you already had that information about the pricing or version 2 when you put in your first bid didn't you?---I didn't have, I didn't

10 THE COMMISSIONER: No, he hadn't, he didn't have the pricing. He didn't have the information on version 2 being released then. But it had been released.

MR STRICKLAND: Well but you – well you had a quote from Q Video didn't you?---Yes.

\$785,000?---That's correct.

That was version 2 wasn't it?---Yes.

20 Right. Nothing had changed and that information had been given to you between that pricing and the 27 February meeting had it, in terms of the product itself or the pricing for that product?---Well the information – I had a conversation with Terry.

Yes. Who said what?---He said that it's, they're at the official launch or at a launch or something and - - -

30 THE COMMISSIONER: I beg your pardon?---That they were at the launch of the product and, and he wanted the job. He said he was willing to assist in pricing.

MR STRICKLAND: All right. But that, I asked you before, I'm sorry the Commissioner asked you before whether he gave an actual figure and you said he did not or you couldn't recall him giving an actual figure. Is that correct?---That's correct, yes.

40 All right. We'll just continue going, at question – line 20 on page 1380, “And was Mr Yallouris somewhere present in Sydney or was he overseas?” “He was overseas?” “Where was he?” “Hong Kong or somewhere or somewhere like that.” “All right. And so what was the price drop that he offered you percentage wise?” “From memory it was a couple of hundred grand or something less.” “It was what?” “I think it was a couple of hundred grand or” “A couple of hundred?” “Yeah.” “Two hundred grand?” “Oh look, I'm guessing.” Then below, in any event you repeat that answer. So did he actually tell you that it was going to drop by a couple of hundred thousand dollars, that is the Pelco product or not?---That was probably what I had in my head.

Okay. Did he – what was in your head must have been as a result of what he had, the words that he had said to you?---Oh, I, I can't recall the exact words he said to me.

Well forget the exact words, did he give you a figure or not?---I don't believe he gave me an exact figure.

Did he give you an approximate figure?---Look, I can't recall. I just had in my head that we were going to get a substantial discount.

10

Well what's the basis of your memory that it was a couple of hundred thousand dollars?---Well that's what I had in my mind, that's what was in my memory, in my mind.

THE COMMISSIONER: But it could only get in your mind because of something that he told you?---Well maybe he said we're going to drop thirty per cent and I've calculated it – look as I say I don't recall it. I don't, I just had in my mind that they're going to be looking after us and there was going to be a significant saving.

20

MR STRICKLAND: Can I suggest this to you?---Yeah.

The only actual basis for your calculation of \$2 million, as distinct from some higher price or some lower price - - -?---Yes.

- - - was because of your understanding that that was, that that figure represented approximately the Art Gallery budget. Do you agree with that?---Sorry, could you ask that again?

30

What I'm saying is that the only reason you put in a revised bid of \$2 million as distinct from some higher price or lower price was because your understanding was that that figure represented approximately what the Art Gallery budget was for the security upgrade installation?---You've asked me that two or three times.

No, this is a different question?---Okay. No it wasn't the only reason.

Because you certainly cannot say can you with any degree of confidence what amount Mr Yallouris offered to reduce the Pelco product by can you?--

40

--That's correct, not the exact amount, no.

You can't even, you can't even give an approximate figure can you?---Oh, in my head it was a couple of hundred thousand.

I see. But that doesn't explain a \$690,000 drop does it, that's \$200,000?---Then your margin and - - -

I beg your pardon?---Your margin and the - - -

Well, what about your margin?---Okay. Well, so that'd be say a \$300,000 drop.

I beg your pardon?---Or 260,000 drop.

So what are you talking about, this - - -?---Well - - -

10 THE COMMISSIONER: You mean that you intended to drop your margin by that amount?---No, no, if you - the cost drops to \$100,000 we, you're talking about the 2.6 million, well, look, that 200 relates actually to 270, whatever, whatever the mark up of that would be.

But your price dropped I think \$690,000?---That's, that's correct, yes.

So Pelco what, 200,000 from that leaves 490,000?---That's correct, yes.

20 So what's, how's the, how's that made up?---Well, it's - there, there would have been margin put onto that \$200,000 so - - -

But how do you get to 490?---And then as the rest of it, as I said it was just the, you know, the passion of just wanting that job and more and more going over it and, you know, driving past it every day and - - -

What made you decide to drop 490 compared to 2 million?---Spontaneous decision, it was just like I want the job and just do it for \$2 million.

30 MR STRICKLAND: Have you got Exhibit R5 with you again? Have you got Exhibit R5?---Yeah.

Just go to page 41 again. Have you got that?---Yes.

Those - in the questions you were asked by the Art Gallery - - -?---Yes.

- - - on 26 February which is attached to that 26 February email, there is no question about justifying a reduction in price was there?---Oh - - -

40 Just have a, could you have a look at the previous, I think it was Exhibit D, going from memory, 48 perhaps.

THE COMMISSIONER: I'm sorry, D48?

MR STRICKLAND: I think that's right. Exhibit R5 is a response to Exhibit D48.

THE COMMISSIONER: Yes, I've got R5 it's just D48, that's what you're going to?

MR STRICKLAND: That's right. The questions on the last page of D48 don't - there is no question that relates to a justifying your price or a reduction in price is there?

THE COMMISSIONER: Sorry, D48 is an email from Mr Morris to Mr Diekman.

MR STRICKLAND: That's right. I'm sorry, is there a last page which deals with the - - -

10

THE COMMISSIONER: There is a later page, yes, questions for the interview.

MR STRICKLAND: That's it, yes. That's what I'm asking you about.

THE COMMISSIONER: Do you follow that, Mr Diekman?---Yes.

You're being asked about the last page, the questions for interview?
---Yeah, yeah, yeah, I've got that, yeah, there's nothing in there though for us.

20

MR STRICKLAND: All I'm saying is - - -?---Yeah.

- - - so you agree there's nothing about that?---Yes.

So you have, your page 41 - - -?---Yes.

- - - is a - something you weren't asked about but you thought you needed to tell them, this is the Art Gallery, is that right?---I don't know whether I thought I had to tell them but this - - -

30

Well, otherwise you wouldn't have it there. It wasn't there for nothing, was it? It was information you could, you intended to convey to the Art Gallery which is why you have recorded it in writing?---Did we convey this to the Art Gallery or this is my notes?

Well, you were there?---Oh, I can't recall whether - - -

40

Well, well, that's the - well, that's what your intention was, wasn't it, to, to give information to the Art Gallery about why you've reduced your price, I think you've agreed with that before lunch?---Yes.

I just want to take you to a couple of other points in that page 41. The third dot point is the Australian Pelco representative was in China during the tender period?---Yes.

And why was that relevant to your revised price?---I, I, did I, did we submit this to the Art Gallery?

That's not my question I'm asking you?---Well, this is just my notes for my head.

Yeah. Well, I'm asking you and these notes for your head are in case you are required to or in case you did justify the reduced price, correct?---Well, it's explaining my tender.

10 Yeah. Well it's explaining the revised price, isn't it?---Yes.

Because that's what it says your pricing - - -?---Yeah.

- - - or our pricing. Correct?---Mmm, yes.

So what is the relevance in your head of the - to the revised price of the Australian Pelco representative in China during the tender period?---No idea.

20 Well it's an excuse wasn't it as to why you reduced the price?---Well - - -

It's one of the excuses you offered isn't it?---No, it was not an excuse, no.

Well what's its relevance then?---Well maybe there is no relevance.

Then why did you include it?---Well there's a lot of things in here that probably has little relevance but you include things.

I see.---And as I said did I submit this to the Art Gallery?

30 Well did you or not you were there?---It was that (not transcribable) I can't recall whether it was - - -

THE COMMISSIONER: Didn't you, didn't you say something about the Pelco representative being in China and phoned you from China and offered to drop the price?---He asked me what was going on with the tender and I said we had put a Pelco Solution in.

40 Didn't, didn't he phone you from China and isn't your, isn't your case this that he or your version that, that Mr Yallouris phoned you from Hong Kong or Singapore - - -?---Yes.

- - - or perhaps China - - -?---Yeah.

- - - and offered to reduce the price?---That's correct, yes.

MR STRICKLAND: Just - if I can ask you about the next point. "We use Verint storage calculations on the Pelco Solution." Do you see that?---Yes.

And was what you were trying to convey there that a mistake was made in the original bid in relation to the storage calculation cost for the Pelco Solution?---I don't - - -

I beg your pardon?

THE COMMISSIONER: He said I don't know.---I don't know. You'll have to ask our engineers on that. From memory it was something there that was going to be obviously less storage.

10 MR STRICKLAND: So who, who calculated the Verint storage for the Pelco Solution, who was the person who would have made that mistake?---I think - well I don't whether it was a mistake.

Wasn't it?---Well - - -

THE COMMISSIONER: Well who, who, who, who did the Verint storage calculations in your office?---It would have been Damien Dunphy or maybe got that information from Verint themselves.

20 MR STRICKLAND: But, but you weren't - your statement there wasn't about Verint storage calculations it was about the price in relation to storage wasn't it?---Yes.

And you're saying it was Damien Dunphy?---Well it could have been Tony Theissen from Q Video or it could have been Verint themselves.

Can I ask you do you have an explanation as to why you have included in this document that sentence?---Ah - - -

30 What's its relevance for the reduction in price. Do you know?---No, I don't.

Okay, thank you. Have you - thank you. Now you then - after the - I, I tender the questions and answers at page 1379 and 1380 from the compulsory examination on 14 May - - -

THE COMMISSIONER: Pages 1379 and 1380 of the transcript of Mr Diekman's compulsory examination on 14 May 2012 is D50 as in exhibit.

40 **#EXHIBIT D50 - PAGES 1379T & 1380PT OF EVIDENCE GIVEN BY MR DIEKMAN IN COMPULSORY EXAMINATION ON 14 MAY 2012**

MR STRICKLAND: Could the witness please be shown exhibit R7. Do you recognise that document as a document that was prepared for your second interview at the Art Gallery?---Yes.

On 3 March 2009?---Yes.

And did you prepare this document or did you assist in the preparation of it?---Assisted.

If you go to page 122?---Yes.

10 Question 3, percentage of Kings electronic security turnover with this project represent. Did you have any discussions with anyone at the Art Gallery about the fact that they were asking Kings that information?---No.

Did anyone at the Art Gallery, did Mr Paul ever tell you that the Art Gallery wanted that information?---No, look I'm not aware of that. I don't, it doesn't, I don't recall any to be honest with you.

Did Mr Paul ever tell you what a preferred answer to that question would be?---No. Well not that I can recall.

20 Did you assist in the answer to that question, in formulating the answer to that question?---Sorry, did I assist - - -

Did you assist in providing the answer to that question?---Did I?

Yes?---Oh, I may have but I don't remember (not transcribable) to do with it.

Did you know that the price weighting for the bid was changed during the tender process?---No, I wasn't, no I didn't.

30 And do you accept that you were awarded the contract on 9 March, 2009? ---If that's what, you've got it there, has said.

Just if the witness could be shown Exhibit R9 please?---Yes.

Do you accept that that's the date you were awarded the contract?---Yes.

Thank you.

40 THE COMMISSIONER: 6 March.

MR STRICKLAND: Did I say, I'm sorry I keep on, it's 6, thank you, I beg your pardon, 6 March. Thank you. That document can be returned, thank you. If I can just go to the time before this contract was awarded. Do you remember making arrangements with Daniel Paul about going to the Las Vegas conference, the ISC conference in March 2009?---I remember having discussions about it, yeah.

And did you have discussions about who Kings might sponsor to go to that conference?---I think he asked us to sponsor some people, but we took our own people that year.

You'll have to – can you speak more slowly and - - -?---We took our own people that year and, yeah, I think I also mentioned that I would pay for Maurice Ciot and his wife if he was going to go there or to South Africa. But I vaguely remember that.

10 All right. What about Tony Morris from the Art Gallery, was it ever suggested by Daniel Paul that Kings should sponsor him to go to the ISC conference?---He may have asked, but look I can't recall but we didn't pay for Tony Morris to go to the, go to the conference.

If Mr Paul had asked you before the contract to the Art Gallery had been awarded to you to sponsor Tony Morris from the Art Gallery - - -?---Yes.

- - - would you have regarded that as unusual?---Yes.

20 Why?---Well the tender's out. The tender process is out.

Right. And so why would that be – you'd regard that as being inappropriate would you?---Yes, yeah.

A conflict of interest?---Yes.

And you wouldn't entertain that would you?---That's correct.

30 But you went to the ISC conference in March 2009 didn't you?---Yes.

And Mr Morris was there?---Yes.

And did Kings shout him any meals?---I can't specifically recall saying here I'm shouting you something but I mean I would have put my card on the bars and, and restaurants and whether Mr Morris was at that, I can't recall any specific occasion. It was sort of – the bills were shared around.

40 Well do you recall any occasions when Kings shouted Mr Morris anything at all at that International Security Conference?---As I said we would – if there was 15 or 20 at a dinner, I would put my card down on the table, but I don't think I would have gone up and said, I'm buying this for you Tony.

Was it Kings' practice to sponsor - and I'm not talking about your own employees but to sponsor other people to attend the ISC conference?---It wasn't a common practice, no.

Well, was it - did you ever do it?---Yes.

Did you, did you ever sponsor government employees - - -?---No.

- - - to attend?---No, not that I'm aware of, no.

Right. Did you ever sponsor consultants, not consultants that Kings retained but consultants for projects, consultants retained by some agency for which Kings was bidding?---I think from, from looking at the records there that some years ago, in two thousand and was it six or something that we sponsored someone who was going on Dan's party, on Daniel Paul's party.

10

And who was that?---I, I don't even know who it was.

Are you talking about Anthony Meijer, is that who you're talking about?
---No.

Who are you talking about then?---Well, I think I put some money towards the team that was going over there.

Sorry, when? 2006?---Some, some time, at some time.

20

And who was on that team?---I can't recall.

Could the witness please be shown Exhibit R10, that's an email from Mr Diekman to Mr Roche, 27 January, 2009. Just turn to the email first in time where Mr Paul writes to you, "Who of these are being sponsored by you? I'm happy to pay and arrange et cetera and invoice you but I will want payment within 21 days of invoice" and there's listed a number of people. Do you see that?---Yes.

30 Including himself?---Mmm.

And Tony Morris, correct?---Yes.

That suggests a practice, doesn't it, of Kings sponsoring people to attend the ISC conference by, whereby Mr Paul pays or arranges for the attendance and paying for flights or accommodation and then Kings paying Paul back, that's what that email suggests, doesn't it?---Oh, I'd suggest that it's Mr Paul asking us if we could sponsor any of these guests.

40 I beg your pardon?---I'd suggest that it's Mr Paul asking us if we were interested in sponsoring any of these guests.

Yeah. But are you saying when you received that email were you surprised that he would have the audacity to ask you to sponsor those guests?---No.

He had done that, had he made that request before?---Yes.

And had you complied with that request before?---As I said I may have in 2007 or something, 2006 it might have been.

So you have complied with it before?---Yes.

That request and - - -?---I believe so and that's only from going back through records that you've showed me in this inquiry.

10 But this is the case isn't it, that if Mr Morris had agreed to it or the Art Gallery had agreed to it, you would have sponsored his trip to the ISC conference wouldn't you?---Sorry, ask - - -

You would have sponsored Mr Morris to the ISC conference if you had been permitted to do so wouldn't you?---Depending on the circumstances.

Depending upon what circumstances?---Well, I, I, I wouldn't, there's a tender going out there and so I, I wouldn't have, I wouldn't have offered or, and unless one of our wholesalers had offered us - - -

20 There's no doubt you knew there was a tender at that stage didn't you, because it's got Tony Morris Art Gallery?---That's correct and that's why I didn't, we didn't sponsor him.

I see.

THE COMMISSIONER: So did you say no, I'm not going to sponsor him? ---I don't think I replied, I don't remember.

30 MR STRICKLAND: You don't think you replied to Mr Paul?---Oh, well, is there, is there a reply?

Well, I'm asking you?---I, I don't know, I can't, I can't recall.

It's very unlikely you would have ignored that email, isn't it?---Why?

Well, did you ignore it?---Well, I can't recall.

40 Well, you were in contact with Mr Paul on an almost daily basis weren't you?---Yes, yeah.

Are you saying that you told him you would not agree to sponsor Tony Morris because there was a tender coming up and I don't want to be involved?---I, I don't recall saying that, no.

I beg your pardon?---I don't recall saying anything at all about it.

But it's not something you even would have said is it?---Sorry, can you go back.

I'll withdraw that question. Before you left for Las Vegas did you take any, any cash for the trip?---Yes, I believe so.

And how much?---I'm guessing, you've got the records there, so - - -

Do you recall?---10, 20,000.

THE COMMISSIONER: US dollars?---Yeah.

10

Or Australian?---I think I took, I think I gave 10 to David McMicking and I had 10.

Australian or US?---Well we converted it to US here.

MR STRICKLAND: So you gave 10,000 to McMicking, yes and, and who did you give the other 10,000 to?---I think, I think I took 10,000 over and I think I gave some to some of our guys that were travelling with us.

20

Which guys?---I can't recall. Usually when I go away I give them all a bit of money.

Okay. You said your guys, you mean your employees?---Yeah. Mmm.

Okay. Is one of the main purposes of that trip to network with other suppliers and consultants - - -?---Yes.

- - - and people at Kings do business with. Is that right?---That's correct, yes.

30

Now could the witness please be shown Exhibit R11 and R12. I'm asking you about cheques 3532 and 3533. Just go to the actual cheques themselves?---Mmm.

Do you notice your writing on those cheques, your signature?---My signature, yes.

On both cheques?---Yes. Yes.

40

And is it the case that you physically went down to the bank yourself to cash those cheques?---I can't recall.

That was your practice wasn't it when you got a bank cheque, when you signed a bank cheque that you, you yourself went down to the bank to cash it?---It's made out to Amex so I don't think I cashed that.

You didn't cash that. What did you do with that cheque?---I gave that to Dan for taking Mr Ciot and his wife, I believe.

You said you gave, do you mean both cheques?---Yeah.

Right. And why did you – and you asked Mr Poller to draw those cheques. Is that right? You signed them but you asked Mr Poller to - - -?---Yes.

And why did you ask Mr Poller to draw two cheques as distinct from one cheque for \$20,000?---‘Cause there was a couple of reasons why, Mr Poller always, doesn’t like giving me big cheques.

10

I beg your pardon?---Doesn’t like giving me, doesn’t like giving me big cheques. The banks don’t cash big cheques. And the other reason is that I said to – another one of my spontaneous moments when I was out drinking with Mr Ciot and was talking about his birthday and getting out of the industry and not going to Vegas and I said, oh bugger it, I said you’re coming and I’m paying for it. And he said no, no, no. And then there was some talk about going to Africa or something and I – going in the next couple of days and just getting the two cheques. And I said, and I can recall (not transcribable) I said if, if Michelle doesn’t go just rip one up.

20

Can I just ask about the first reason?---Mmm.

You said Mr Poller doesn’t like big cheques. Is that what you said?---Well - - -

No, is that what you said - - -?---Yes.

- - - just a moment ago?---Yeah.

30 Is that what he told you, he doesn’t like big cheques?---Well sorry, sorry, he’d give me \$10,000 cheques ‘cause when I’d go to the bank if you took a \$20,000 cheque they wouldn’t cash it for you. You had to go and order it, so – you can just go down the bank and cash a \$10,000 cheque.

But you cashed both those cheques on the same day didn’t you? Or when you – I’m sorry, are you saying that if you were given two cheques for \$10,000 you could cash each cheque but if you were given one cheque for 20,000 you couldn’t cash one cheque?---Well sometimes I could cash two, sometimes they’d say no, we don’t have the money, you’re going to have to go to another bank.

40

Is that what Mr Poller told you or that’s what you told Mr Poller?---I can’t recall.

Are you saying it was - it was at Mr Poller’s instance that there were two cheques for \$10,000?---No, I’m not saying it’s his instance but I - what my experience was if I took a \$20,000 cheque to have it get cashed that often

the banks didn't have the cash there or they couldn't cash so I had to ring before - - -

THE COMMISSIONER: But if you took two \$10,000 cash the same position would arise?---Well sometimes they'd say yes or they say no we can only give you 10,000 so then I'll still have the \$10,000 cheque to go to another bank.

10 MR STRICKLAND: Is it the case that - isn't it the case that you've said in answer to the question about why two cheques rather than one - - -?---
Mmm.

- - - for \$10,000 you said because Mr Poller told you there were cash flow problems with the business?---He'd always tell me there's cash flow problems.

No, but is, is that a reason that Mr Poller gave you there were cash flow problems?---He would always tell me it's - - -

20 THE COMMISSIONER: No. Is that a reason that he gave you for writing two cheques?---Oh, I don't know whether it's in relation to that.

MR STRICKLAND: But there are other times when he told you there were cash flow problems and that's why he gave you two cheques. Is that right? ---Or he'd give me two cheques and say don't cash them. Cash, cash them as far apart as you can.

All right. There was other occasions, is that right?---Yeah.

30 But not this particular occasion?---Oh, I don't, I don't know whether it's this particular occasion.

So you wanted to shout Mr Ciot and his wife - - -?---Mmm.

- - - a trip, is that right?---That's correct, yeah.

40 Well why couldn't you give Mr Ciot and his wife those two cheques yourself? Why, why not give them direct to Mr Ciot and his wife, why, why do it for Mr Paul?---Well Mr Paul has a habit of organising everything and people pay him and I think if you go through the records there's a lot of people that have done that, they've given him the money and he's - - -

THE COMMISSIONER: But if they pay him why do you pay him?---
Sorry?

If they pay him why do you pay him?---Well he was travelling - if he was - if Mr Ciot was going to come to Vegas he would have been travelling at a

different to what we're travelling, you know staying in nice hotels and he had his wife with him and we were staying at a cheaper hotel.

So the \$20,000 is on top of what they pay for normally?---Well it's not on top of it's just - he was travelling with a different group.

10 MR STRICKLAND: But, but you - - -?---And, and he wasn't sure whether he was going to go to Vegas or go to South Africa and as I said I think a lot of the other people there - just Dan organises it and people just pay him.

THE COMMISSIONER: Then why do you pay him? If they pay him why do you?---Sorry, who's they?

You said he organises or a lot of other people and they pay him?---Yes.

So once they pay him you don't have to pay him?---Well I - in my head Morris didn't want to accept it and I just thought if I give it to Dan he'll order it and he'll put the pressure on him to come over.

20 MR STRICKLAND: And how do you know that the cost of each ticket was \$10,000?---Well, it wasn't, it was to cover his accommodation and food and whatever, whatever else you do when you're away.

So how did he fix a figure of \$10,000, did someone give you - - -?---My - - -
- - - a cost price for that?---Well it's my spontaneous way, 10 grand.

30 Okay. But you organising - Kings was organising your own trip to Las Vegas - - -?---That's correct.

- - - and Mr McMicking was, I think you've described him as - - -?---Yes.

- - - like a travel agent for you. Is that right?---That's correct, yes.

Well if you were going to Las Vegas - - -?---Yes.

- - - and you believed that Mr Ciot and his wife may be going to Las Vegas -
- - -?---Yes.

40 - - - why not get Mr McMicking to arrange it for them?---Yes. Because we only had men in our group and Morris is a close friend of Dan's and yeah.

But you, you all were - - -?---And he wasn't sure whether he was going so I needed Mr Daniel to put pressure Morris to come over which as I said he didn't succeed he took him to South Africa instead.

When you say there were only men in your group - - -?---Mmm.

- - - but you were all travelling together, your group and Mr Paul's group, that's what you were saying before isn't it, you're all networking together?
---Well we stayed in a different hotel.

Well, and did you instruct Mr Poller about how these two cheques should be treated in the company accounts?---No, I, I can't recall.

Well did you want to have them as, as a company expense?---Yes.

10 And did you tell him what, what he should, what he should record them as?
--Well I obviously told him Vegas conference.

That's what you told him is it?---Well obviously that's what, that's what's written down.

Yeah. And is that because Mr Ciot and his wife said that they were going to the Vegas conference?---They didn't say they were going to the Vegas conference they just - he actually said no, no, no, and I gave them - I got the cheques done in my spontaneous way to try and put the pressure on saying
20 no, it's all done we're going.

We're all going to the Vegas conference, is that right?---I, he kept saying no, I'm not going to the Vegas conference so I wanted him to go the Vegas conference because I was a hundred per cent going there, I wasn't a hundred per cent going to South Africa.

So in other words you, you wanted to put pressure on him and his wife to go to the Vegas conference with you, is that right?---Pressure on him just - - -

30 That's your word?---Yeah, okay, put pressure on him.

You did?---I enjoy his company.

But he didn't, he did not end up going to the Vegas conference with you, did he?---No, he went to South Africa.

So are you sure you weren't giving \$20,000 to Mr Paul for favours that he had given Kings in the Art Gallery contract?---Well, who paid for Mr Morris - so who paid for Maurice Ciot?
40

Can you answer my question?---I'm sure, yes.

Or - - -

THE COMMISSIONER: How long after these cheques were drawn did he go to South Africa?---Since, just after he got back from Las Vegas.

Could the witness please be shown cheques - sorry, Exhibit R13?---R13.

I'm now asking you about two cheques, being 3605 and 3606. If you just go to the actual cheques themselves. Do you see your signature on those cheques?---Yes, I do, yes.

And were you, did you physically cash those cheques yourself?---I think I gave them to Mr Paul.

10 And why did you give those - so you gave two cheques for \$20,000 to Mr Paul, is that right?---That's correct, yes.

And Mr Poller drew them up, is that correct?---That's correct, yes.

And did Mr Poller ask you - was it, was it on his say so that there two cheques for \$10,000 each rather than one cheque for \$20,000?---Oh, I can't recall.

Pardon?---I, I can't recall that.

20 Well, didn't it strike you as odd that you, there'd be two cheques for 10,000 each rather than one for 20?---Oh, I probably, I probably asked for it.

And why?---I owed Dan \$20,000 from gambling, maybe I was, gave him 20 hoping he was only going to cash one.

THE COMMISSIONER: You owed him \$20,000 for gambling?---Yeah.

MR STRICKLAND: But could I just explore - you gave him 20 hoping he'd only cash one, is that the explanation for two cheques?---Well, yeah.
30 No, no, it's not the explanation, it was just one of the ideas I probably had in my head.

But what is the explanation for two cheques?---Well, Mr Poller said there's not enough cash flow, cash one now and cash one in two weeks' time, maybe.

THE COMMISSIONER: Well, why are they both dated the same day?
---Well, 'cause I asked for them on that, on that day obviously.

40 MR STRICKLAND: Well, sir, as at that date and I'm happy to show you the record, your bank balance was some \$490,000?---Mmm.

Mr Diekman?---Yeah.

So why would he tell you to cash one cheque on one date and one on another date?---I'm saying he could have, he often did - 490,000 in the bank's not a lot of money when - it depends on how much we've got payables.

THE COMMISSIONER: But you only had to pay \$20,000 out of it?
---Mmm.

MR STRICKLAND: So I'll come back to the two cheques in the moment but you say you owed \$20,000 for Mr Paul gambling, is that right?---Yeah, that's correct, yes.

10 Was that the actual amount that you owed him, \$20,000?---Oh, that's what I had in my head, yes.

Well, how did that figure get into your head?---I was gambling - - -

Yeah?--- - - - I took chips off him and woke up in the morning and I just said oh, I think I took 20 grand's worth of chips of yours.

But you're not sure, it could have been five, it could have been 10?---It could have been.

20 But you nevertheless, even though it could have been \$5,000 chips you still paid him 20, is that right?---It could have been 50 I was so - - -

But is that right? It could have been 5,000 chips but nevertheless you still paid him 20,000?---It could have been 50,000 too.

No, is that right?---It could have been, it could have been anything.

30 No, I'm just going, your answer - - -?---I'm telling you it could have been anything.

You said it could be have been \$5,000 chips, it could have been \$10,000 chips. Is that right?---It could have been anything. I was quite intoxicated at the time and I was gambling with him for about four or five hours.

THE COMMISSIONER: Where were you gambling?---Planet Hollywood.

In Las Vegas?---Yeah.

40 MR STRICKLAND: Well that was in March 2009. Correct?---Yes.

And did Mr Paul say something to you before 4 May, 2009?---Not that I can recall.

So how was it that you gave him \$20,000 cheques on that date?---Oh look it's as good a day as any isn't it?

THE COMMISSIONER: Why didn't you give it to him before? If it's for a gambling debt in April why didn't you give him the \$20,000 in April?

---Maybe I didn't, maybe because I think actually he was overseas. It was when I got around to it and get to the accountant and I needed the money so I went up and asked them.

Sorry, who needed money?---I needed the money to pay my debt.

MR STRICKLAND: But who was with you when you accrued this gambling debt to Mr Paul?---Oh, there was people coming and going for most of the night.

10

Who was, who was there?---David McMicking, Tim Maas, another guy from Honeywell, the guys from NJH.

But you're saying, what you said is that Mr Paul never asked you for the \$20,000. Is that right?---I think we spoke about it, yes.

When did you speak about it?---Obviously when we got back from Vegas.

What did he say?---Probably what I said - - -

20

No, what did he say?---Oh look, I don't recall.

THE COMMISSIONER: Did he say you owe me \$20,000 when are you going to pay or words to that affect?---No. No. it was probably more I owe you \$20,000 I'll sort it out soon. That's probably more to those effect, but I'm guessing.

You said?---I'm a person that wants to pay debt. I just don't like thinking I owe someone money.

30

MR STRICKLAND: But you can't recall saying that. Is that right?---I can't recall the exact words or the exact conversation.

THE COMMISSIONER: But they were words to that effect were they? When you came back from Vegas you owed him \$20,000. You're the kind of person who wants to pay early, you don't like owing money so you decided - - -?---Not necessarily paying early, I just wanted to pay my debt.

And your debt was about, you thought, was \$20,000?---Yeah.

40

MR STRICKLAND: See isn't it the case that you were asked some questions about these two cheques on your compulsory examination on 9 September, 2011?---Probably, yes.

Yes. And before – and isn't it the case that Kings were notified that they wanted to inquire into these two cheques and the previous two cheques that I showed you?

THE COMMISSIONER: That they wanted to, the Commission wanted to.

MR STRICKLAND: The Commission wanted to, thank you. You knew before you gave that evidence on 9 September, 2011 that the Commission was inquiring into those four cash cheques didn't you?---I'm not sure.

Isn't it the case that you spoke to Mr Daniel Paul at Garden Island about those, about those two cheques, the \$20,000 gambling debt?---Not that I can recall.

10

Just think carefully about that Mr Diekman. Are you sure that before you gave, before you gave evidence at the Commission about those two cheques can you recall – didn't you ever speak to Mr Daniel Paul about those two cheques?---I may have, but not that I, I can't recall.

Do you remember meeting Mr Paul at Garden Island one day?---I've seen him down there a bit, yes.

20

And speaking to him about these two cheques?---Not that I recall specifically, no.

You can't recall that?---No, not specifically, no.

Did you ever speak to Mr Roche about these two cheques? About how it is that Kings pay \$20,000 for your gambling debts?---I think so, yes.

All right. And did you say to Mr Roche?---Oh, I can't remember what I said.

30

THE COMMISSIONER: What did he say?---I can't, I can't remember. I'm only saying I think I spoke to him about it.

Be my guest go ahead pay?---Look I, I don't remember what he said.

Words to that effect?---I don't remember.

Well you did go ahead and pay?---Yes.

Cause it to be paid?---Yes.

40

So you must have got his approval?---I'm not sure whether I did.

Well would you have done this without him knowing?---I may have.

Even though it was - it has nothing to do with the company? Does your personal gambling debt?---That's correct, yes.

MR STRICKLAND: Could the witness please be shown exhibit R14. Do you recognise this email from Mr Roche to you on 5 September 2011?---No. Maybe I have.

I beg your pardon?---Maybe I have.

And just turn over the page and you can see Kings Security Art Gallery Tender Statement of Events?---Mmm, yeah.

10 Do you see that?---Yes.

And do you see on the body of the, the actual email itself it says, "Let's discuss in the morning going to bed"?---Yes.

I want to suggest to you that Mr Roche came back from a examination at this Commission - - -?---Mmm.

20 - - - on the 5 September and told you that he had been asked questions about - and he, and he had received a notice from the Commission in relation to the four cheques that I've just been asking you?---Yes.

Do you remember that?---Vaguely.

And he asked you about those four cheques and where the money had gone to?---Yes.

30 And you gave him an answer didn't you, you, you explained to him about - where the money for those cheques had gone, didn't you?---No, I can't, I can't remember what I said to him.

Well you certainly discussed it didn't you because there's an email saying let's discuss in the morning, an email at 9.25 at night?---Yeah.

And, Mr Diekman, you must have been concerned that the Commission was investigating these four particular cheques weren't you?---Not really, no.

But these were cheques that were given to Dan Paul weren't they?---Yes.

40 And, and if, if it was money actually going for - to Dan Paul that is for him to keep - - -?---That would have been a very serious matter for Kings wouldn't it?---That's correct, yes.

Because there'd be absolutely no legitimate reason for Mr Paul to be given \$40,000 by Kings at that time would there?---That's correct.

So the fact that the Commission were investigating that would have given you a lot of concern wouldn't it?---Well as I said I, I took Morris and his wife so that didn't really bother me.

So you're saying for the first two cheques that didn't bother you?---No.

Is that right?---No.

But what about the last cheques, does that bother you?---Well it bothered me because it was gambling and it's not something that I like in the open - people, don't want people knowing.

10 I see. But you were certainly concerned that there may have been the appearance of some corrupt payments or some improper payments by you to Dan Paul?---And they went through my mind.

Yeah. Well there's no doubt that's what went through your mind didn't it?--As I said it may have, I don't, I don't have a clue.

So you and Mr Roche were concerned to make sure there was a clear and accurate statement about where those four cheques went. Is that right?---Well, Mr Roche was obviously.

20

And you were too obviously weren't you?---Concerned or just want - needed to get our facts right, needed to get our - make sure that we - I don't - - -

THE COMMISSIONER: Make sure that you were what, telling the same story?---No. I, I had to give him my version (not transcribable) the cheques I assume.

30

He wanted to make sure what?---He wanted to know what I did with the cheques.

What did you want to make sure?---Well wanted to make sure that he knew I suppose.

He knew what?---Knew what I did with the cheques.

So you told him?---I believe so.

40

MR STRICKLAND: Look let's just go to the - just go to the fifth page of that document which is headed the suppliers and then payment to Security Consultant International. On your screen as well?---Mmm.

That's that page?---Yeah.

And just go down to payments to Security Consultants International - - -? ---Mmm.

- - - where it states, "The following payments were provided to Security Consultant International" and the first two cheques,. "State sponsor delegate to ISC (not transcribable)"?---Mmm.

And that's information that you supplied Mr Roche on 5 September 2011 isn't it?---I can't recall.

Well that's what's recorded there isn't it?---Yes.

10 And you're not suggesting that Mr Roche knew that by himself did you?---
No.

Right. So I suggest the only source of that information written by Mr Roche was what you told him?---Yes.

And what you told him the two cheques 3532 and 3533 were for sponsoring a delegate to ISC West. On your version today that's false information isn't it?---Yes.

20 So why did you give him false information?---Just - when I read that I said look I'm going to sponsor Morris to Las Vegas and they went to South Africa and yeah. Doesn't make any difference.

What doesn't, what doesn't make any difference?---Well I, I sponsored a delegate or gave a gift to Morris Ciot and his wife and I wanting to go to ICS West but he - - -

THE COMMISSIONER: Telling the truth makes a difference?---Pardon?
Do you think telling the truth makes the difference?---Yes, it does, yeah.

30 Well which is the truth? Did you sponsor a delegate to the IC West Conference or did you pay \$10,000 to Mr Ciot to go to South Africa?---No, I paid \$10,000 to Daniel Paul who was taking Mr Morris, sorry Morris Ciot and his wife which I was hoping that it was going to be Las Vegas but they went to South Africa instead.

But by that time you spoke to Mr Roche and gave him the information recorded. On the fifth page of this document which is R14 I think, yes. You knew already, you knew that Mr Ciot had gone to South Africa?---Yes.

40 So why did you tell Mr Roche it was for sponsoring a delegate going to IC West?---I, I don't think I actually told him that I thought I actually told him he was going to South Africa but, but I can't recall, maybe I did say that but I meant to say South Africa.

You, you told him it was I, IC West but you meant to say South Africa?
---Well I didn't write this document.

But is that what you're saying? I'm not asking who wrote the document I'm asking if that's what you're saying?---I don't really - - -

That you're meant to tell him that he went to South Africa but in fact you told him that he went on ISC West - - -?---As I said I planned it I wanted Morris to go, go to ICS West.

No. That's not what I'm asking. I'm asking you is that what you said that you - - -?---I can't recall whether I said that or - - -

10

And is that true?---Yes, it is.

What, that you told him that it was that - the cheque was for sponsoring a delegate to ISC West but in fact it was a person who went to South Africa? ---I can't recall what I exactly told him but yes, it is true that we took Morris Ciot - that we sponsored Morris Ciot and his wife to South Africa and then over to Europe.

Mr Strickland.

20

MR STRICKLAND: And in relation to the third cheque 3605 and 3606 did you tell Mr Roche that those two cheques were paid as reimbursement for costs covered by SCI ISC West?---I can't recall what I told him. Look that - you are the only possible source of the - of his information?---Yeah.

Is that correct?---Yes.

30

Right. But you obviously - you didn't tell him then when he wrote this - before he wrote this document that the \$20,000 was because you had accrued gambling debts to Mr Paul did you?---I cannot remember what I told him.

So what I want to suggest to you is when he first asked you about these 20,000 worth of cheques on 4 May, 2009 you did not tell him that they were for gambling debts you owed Mr Paul, that's true, isn't it?---I honestly can't remember what I told him.

40

Because if you had told him that then that is what he would have recorded in his reasons for the two cheques. Do you agree with that?---As I said, I don't remember what I told him.

Could the witness please be shown Exhibit R16. If you go to the same fourth or fifth page under "Payments for Security Consultants" you can see that there are different reasons given for all four cheques, do you see that? ---Yeah.

And what I want to suggest to you is that between the time you first provided information to Mr Roche some time on 5 September and the time he wrote this document to himself on 6 September you had decided to change your story about where those four cheques went, where the money for those four cheques went?---Well, no, sorry, but this is, this is what happened to the four cheques. I didn't write these documents.

Do you understand what I'm putting to you?---Yes.

10 Well, do you agree with what I'm putting to you or not?---Well, is that, was this done at a later date or - - -

Well, look at the, look at the top page, the first page of the email, it's an email of 6 September at 9.37am and it attaches the same document but with a - - -

THE COMMISSIONER: You better show him - sorry, Mr Strickland, I think just show Mr Diekman the first so - he may have forgotten the time and the date of the first document.

20

MR STRICKLAND: Thank you. Exhibit R14 was written on 5 September - - -?---Yes.

- - - at 9.25pm?---Yes.

That's the first version of the statement of events - - -?---Yes.

- - - and those four cheques?---Yes.

30 The second version is the following morning?---Yes.

At 6 September, 9.37am?---Right.

And bear in mind, on Exhibit R14 he has sent you an email, this is in Exhibit R14, this is 5 September, saying "Let's discuss in the morning, going to bed"?---Mmm, mmm.

40 And what I want to suggest to you is before, in the morning, the Tuesday morning of 6 September you did discuss those four cheques with Mr Roche?---Yes.

Okay. What I want to suggest to you is that when you discussed those four cheques with Mr Roche you decided to change your story - - -?---Yes.

- - - about where the cash in those four cheques actually went to, what their purpose was?---Well, I didn't make that up.

Do you agree with that or not?---No, I - - -

Do you understand the question?---I understand the question, I don't agree with it. Mr Roche wrote that and that's what his, that's what they thought I did with the money.

THE COMMISSIONER: But he could only have got the information from you though?---Well, sponsor delegate to ICS West and reimburse (not transcribable) cost, I mean - - -

10 MR STRICKLAND: Well, look, see, Mr Diekman, you've agreed - - -?
---And then, and then I probably elaborated on it when he said well, wait, well, when he sent that in the morning I've probably gone no, hang on, this is the exact - - -

Mr Diekman, you've agreed that the source of the information - - -?
---Mmm.

- - - in relation to both documents was yourself, right?---Yes.

20 And the - you agreed that Mr Maurice Ciot was not a delegate that you sponsored to ISC West, was he?---I invited him to ICS West but no, he didn't, he ended up going to South Africa.

There's no doubt that on 5 September you knew that he was not a delegate that Kings sponsored to ISC West, there's no doubt about that, is there?
---That's correct, yeah.

30 Right. And so what I want to suggest is that you gave him, you gave Mr Roche different information about those cheques and then you changed your story before he wrote the document on 6 September, do you agree with that or not?---This first one, he might have called me up on the phone or something and said these cheques and I might have said oh, it's all ICS West and reimbursement and then when he's sent that I've come along and given him an accurate - and that's why he says let's discuss and I've given him an accurate detail.

When you say you might have - - -?---Oh, well, I'm, I'm - - -

40 - - - I'm not interested in what might have happened, what did happen?
What did you say to him?---Well, I'm, I'm guessing, I'm just guessing that because that's not right and I would have said no, this is the right one. I didn't sit down with him and write that and that's why he's sent it to me saying let's discuss.

I want to suggest to you that given the obvious importance of the inquiries made by ICAC about these four cheques you knew perfectly well the information you gave Mr Roche on 5 September and then the information you gave him on 6 September. Do you agree with that?---No, I don't agree

with it. I didn't write this, he wrote that and he says let's discuss and then I probably, I've given him the right information.

And I want to suggest that in relation to the other two cheques, that is 3605 and 3606 you again changed your story from what you told them on 5 September which was that they were for reimbursing costs covered by SCI - - -?---Yeah.

10 - - - to the story that they were gambling debts that you'd incurred?---Cost to him, I borrowed the money off him, I borrowed the chips off him.

And that was a cost was it?---Well, a cost to me, yes.

Well, what I want to suggest is that you refined - you changed your story because you wanted to provide as, you wanted to provide a version to the Commission, this Commission, which you thought would pass muster with it?---No, that's not correct.

20 Is it the case that, that you gave - I withdraw that question. Could the witness please be shown Exhibit R27. And that is folio 239. Now, this is a email sent by you to Mr Poller in relation to an invoice sent by Scooter Central to Kings where you said in the top of the latter email that you wanted to discuss this matter with, with Mr Poller?---Yes.

Do you recall receiving an invoice from Scooter Central?---Vaguely.

If you just go to that page of the invoice, do you see that?---Yes.

30 Do you see it's got scooter to be registered - - -?---Yes.

- - - in the name of Robert Huskic?---Yes.

So this is the scooter - - -?---Yes.

- - - that you paid \$7,000 for, is that right?---Yes.

In relation to the cleaning and maintenance of the boat?---Correct.

40 And that's money that - are you, that's money that you paid for out of your own account, is that right?---Oh, I'm, I couldn't find it in my own account but I, I thought I paid for it out of my own account and the only reason it says Kings Security there is that Mr Huskic gave them my business card.

Yes. And did you discuss that with Mr, with Mr Roche?---No, not that I can recall.

Or Mr Poller?---No, I, I can't recall actually having a discussion with him but maybe I did.

Could the - could the witness please be shown AHS 179 to 180. Excuse me. Thank you. And do you recognise that as an email that you sent to Robert Huskic attaching a tax invoice?---Yes.

I tender that document.

THE COMMISSIONER: The email from Mr Diekman to Mr Huskic of 1 January, 2009 with the tax invoice attached is Exhibit D51.

10

#EXHIBIT D51 - STRING OF EMAILS, THE FIRST OF WHICH IS AN EMAIL FROM MR DIEKMAN TO MR MCMICKING DATED 16 JUNE 2009

MR STRICKLAND: D51 is it?

THE COMMISSIONER: Yes.

20

MR STRICKLAND: Thank you. And could the witness please be shown AHS 177, 188. Now do you recognise this as an email from Mr McMicking to you with a reply from you to Mr McMicking on 16 June, 2009?---Yeah.

I tender that.

THE COMMISSIONER: Yes, the email from Mr Diekman to Mr McMicking of 18 June, 2009 with that being the top of string of emails will be Exhibit D52.

30

#EXHIBIT D52 - EMAIL FROM MR DIEKMAN TO MR HUSKIC ATTACHING INVOICE FROM KINGS IN THE AMOUNT OF \$8,250.00 SENT ON 1 JUNE 2009

MR STRICKLAND: And do you see that the first email that Mr McMicking sent you refers to the previous document that I showed you with a tax invoice for Kings?---Yes. Ah hmm.

40

And why did you write to Mr McMicking in reply, you only owe two k now for Robert's Vespa?---I have no idea.

I beg your pardon?---No idea. Probably saying go me.

I beg your pardon?---I have no idea.

You have no explanation for that?---No, no. Two k for Robert's Vespa.

You don't have an explanation?---No.

You don't?---No, it doesn't ring a bell.

Okay. You obviously told Mr McMicking about the fact that Kings have provided a Vespa scooter to Rob Huskic?---Yes.

10 And did you tell Mr McMicking why?---I believe so.

What did you tell him?---Working on my boat.

So as you'd already paid for the scooter - - -?---Yes.

- - - how was it that anyone could owe you \$2,000 for it?---I don't recall sending this and it was probably a bit of a joke, so I don't know. Why would David McMicking owe me \$2,000? It's not - - -

20 THE COMMISSIONER: Or maybe Kings owes you. Maybe Kings - - -?
---Well I'd always - - -

- - - maybe this means that Kings owes you because Kings are paying you back?---I don't know.

So where it says all sorted. She is going to pay the \$8,250, who is she?---I don't know.

30 Are you really seriously telling us that you have no idea who Mr McMicking is referring to?---She, no I don't.

Well who was going to pay the \$8,250?---I don't, unless she's the accounts person, I don't know.

Why do you think Mr McMicking was sending this to you?---Oh, probably asking to chase for payments of jobs.

40 But you understood it clearly what he was talking about because you reply you only own two k now for Rob's Vespa?---Because he said do I get commission for this and I was talking about, having a dig at him, you know.
Like I don't know.

MR STRICKLAND: Mr Diekman, do you recall an occasion last year when Mr Huskic gave Mr McMicking a list of things that he wanted to receive from Kings?---No, I don't recall that.

Have you ever heard from anyone that Mr Huskic wanted Kings to give him a mobile phone, an iPad, an external hard drive, a PlayStation, computer games?---Not that I can recall. What, he's asked me for it?

Do you want me to repeat the question?---Yeah.

You've got to listen to the question?---Yes.

Have you ever heard Mr Huskic saying that he wanted Kings, your or Kings to provide him with certain gifts, like a mobile phone or an iPad, an external hard drive, a PlayStation or computer games?---I haven't heard it. I mean I can't recall it.

10

Would that surprise you to hear that?---Yeah.

You've never heard from anyone that Mr Huskic has asked to be provided with those things or liked things?---Well he might have asked if we can get them for him, he might have asked - - -

Well I'm not asking, I'm not asking what he might have done?---Yeah.

20 I'm asking you whether he has done it to your knowledge?---Not to my memory, but sometimes he rings us and says can you get me some of this at a special price, like through wholesalers.

When you say he rings us, who does he ring?---Oh well he's asked me occasionally, can I get a (not transcribable) something, you know, at wholesale rate.

Like what?---Like a phone, like I don't, I'm only guessing now.

30 He's either done that, he's either rung you up and asked you or he hasn't. It's not a matter of guessing?---Well he's asked for an alarm system and he's asked for, you know, for - - -

I'm not, has he rung you up and asked you for a phone at a wholesale rate? ---Not that I can recall, no.

Didn't you just say that he might have done that?---He might have but I can't recall any, any situation.

40 Well why did you say he might have if, if you don't recall it?---Well he rings up and sees if he can get things wholesale.

What kind of things?

THE COMMISSIONER: What kind of thing?---Electronic things that we can supply, cameras, alarm systems.

Phones?---I can't recall.

iPads?---I can't recall iPads.

MR STRICKLAND: The first thing you said you said alarm systems and you said something else before that I just missed it? What else has he asked for wholesale?---Whatever we can supply I suppose.

But what else has he asked you for wholesale?---I can't recall anything specifically.

10 And do you know why he has rung you up and asked you for things wholesale?---Saving money.

Right. And have you, have you complied with his request?---Well with his alarm system, yes.

Anything else?---Not that I'm aware of.

What about security doors for his parents?---I remember him requesting something like that but vaguely.

20

What do you recall about that?---Oh, he wanted to get a security door or something.

Yes, for whom?---For his cousin or his parents or - - -

THE COMMISSIONER: And did you agree to do that?---I, I can't recall. I don't know whether it was done.

30 MR STRICKLAND: Well we've already gone through the security door for his cousin?---Yes.

I'm asking you something different, that is did he also ask for a security door for his parents?---Not that I can remember.

Okay. So it would be incorrect would it to say that last year, 2011 Kings provided any gifts to Mr Huskic to your knowledge?---To my knowledge - - -

40 Would it be incorrect?---Well to my knowledge I can't recall anything specifically.

THE COMMISSIONER: To your knowledge it would be incorrect? ---Yeah. Or maybe he's paid for something, look I don't know.

Anyway, you say to your knowledge you had nothing to do with any provision of gifts to him from Kings?---Well, we did his alarm system.

To your - please answer the question?---That's right, yes.

Could the witness please be given Exhibits R21 and R22. Excuse me.
Now, if I could just take you to four cheques here, being 3691, 3692, 3693,
3694, does your signature on - can you see your signature on those cheques?
--- (No Audible Reply)

I think you've only got 3692, 3693 and 3694, can you see your signature on
those three cheques?---Yes.

10 And you were provided - did you go down and bank those three cheques?
---Oh, I can't, remember.

Well, wasn't that the practice when you were - - -?---Or cash them.

- - - provided with cash cheques, that you yourself went and banked them?
---Yeah, or, or cashed them.

Or cashed them?---Yeah.

20 And did you, what did you do with the \$30,000 cash?---Oh, I can't
remember.

And what did you - why did you need those three cheques for?---Can't,
can't recall.

You've got no idea?---No.

Well, if you look at the, if you look at page 152, that is the cheque butt and
if you look at the first page of Exhibit R22 you'll see that the cheque butt
30 for each three cheques says "Art Gallery"?---Yes.

And did you ask Mr Poller to record these cheques under the, under the
heading "Details Art Gallery"?---Oh, I honestly, I can't recall this but - - -

Well, do they - - -?---I don't even, I don't think that's Mr Poller's writing on
this.

Is it your writing?---No, it's not mine.

40 Is it Mr Marinucci's?---I don't know.

Was it Ms McLennan's?---Oh, I don't know.

Could the witness please be shown - oh, no, before I show you that, was -
were these cheques - was this \$30,000 anything to do with Art Gallery
Project?---I don't, I don't know.

But you authorised these three, these three cheques, didn't you?---Yeah, yeah.

You've got no idea what they're for?---Well, I assume it could be Art Gallery but I, I don't recall them.

And you've got no idea what you did with them?---No.

10 Could the witness please be shown Exhibit R23 and also R24. These cheques have been accounted for in the remittance advices in the Kings' ledger records as being for Art Gallery project management. Do you see that, the remittance advice - - -?---Yeah.

- - - at Exhibit - the three cheques, Exhibit R23?---Yes.

Did you tell any of your employees in the finance department to record them for project management for the Art Gallery?---Not that I can recall, no.

20 Someone must have told them?---Yeah.

And I suggest it must have been you?---It could have been but I don't recall doing it but - - -

Were these cheques, were the, were the cash that you withdrew from the bank was the cash that you took out on that day used to pay any consultants? ---Not, no, not that I can recall.

Or to pay Mr Paul?---Not that I can recall, no.

30 Well, when you say not that I can recall - - -?---Well, no, no, it wasn't.

- - - if you have done so you would recall, wouldn't you?---Yes, yeah.

THE COMMISSIONER: Well, what possible reason could there be to pay these cash cheques in connection with the project management of the Art Gallery at that time?---I don't know. I just, I just don't remember them.

40 Unless you can explain what they were for the inference arises potentially they were for some reason that you don't want disclosed?---No, I, I just can't remember them, it was three years ago.

Yes, but I'm asking - I'm not asking you now to remember I'm asking you to suggest a possible reason for the payment of these moneys in connection with the Art Gallery at that time?---(No Audible Reply)

No?---Oh, I can't, I just can't, I can't remember.

You can't think of a possible reason to pay \$30,000 in cash to the Art Gallery at that time?---No.

MR STRICKLAND: Forget at that time, can you think of any legitimate reason to pay \$30,000 cash in relation to the Art Gallery project?---Say, say, can you say it again?

Can you think of any legitimate reason - - -?---Yeah.

10 - - - to pay \$30,000 cash on a single day - - -?---Yeah.

- - - to the Art, for the Art Gallery project?---Oh, subcontractors or I kept it. I honestly can't recall.

Which subcontractors did you pay \$30,000 cash?---All right. I don't recall any paying of a subcontractor \$30,000.

So can we - we can eliminate that, can't we, in relation to the Art Gallery?
---Yes.

20

Okay. And you say for your personal reasons another explanation, is that right?---It could have been, yeah.

For, for - well, what did you need \$30,000 for at that time?---Oh - - -

Cash?---I, I, I don't remember.

And why three cheques for \$10,000 each as distinct from one cheque for \$30,000?---As I said before, you go down there with a big cheque and they
30 won't cash it for you.

Could the witness please be shown Exhibit R28. And could I get you to read, read for yourself, read to yourself the emails, just start the beginning which is at page 216 and then just read the three emails on 216 and then 215. Read those?---Yes.

40

And what did you understand Mr Roche to mean when he wrote to Mr Theissen a copy to you that someone has a 20K problem?---Meaning we've got the 20K problem.

And what was the 20K problem?---Oh, I - - -

THE COMMISSIONER: Why do you say you don't know? I mean doesn't that, doesn't that explain in the - - -?---Somewhat somewhere in between.

- - - in the email on the following page - - -?---Well - - -

- - -205, 28?---In the, in the end we provide the Art Gallery with a number of different options for the housings and they chose these ones for the aesthetic reasons Peter's talking about here, it took a lot of time to choose them, a lot of mucking around, putting the samples up there, and then I believed Terry Yallouris was upset because he wanted the Pelco housings up there and if there was a problem we just had to wear.

So you do know what the 20K problem is?---Well it was just the, the time it took up for getting the right housings.

10

No. But just, just - can I just - you do know what the 20K problem was, is that right?---Well it's assuming it was the time, the time it took to - for them to choose the housing.

Yes. Can I ask you this, when I first asked you if you know what the 20K problem was - - -?---Yeah.

- - - and you said I don't know why did you, why did you give that answer? ---Well, I don't know.

20

Why did you give that answer?---It's late and my mind's not working that quickly at the moment.

Or is it the case you'll just give answer irrespective of its truth or not? ---Well as I said it's late and my mind's not working and maybe I should be (not transcribable)

30

Well can you explain this the top email what does Mr Paul - what, what did you understood Mr Paul meant when he said this email to you, "Looks to me like the 20K could be increased to 50K"?---Mmm.

What did, what did, what did he mean by that to your knowledge?--- Humour, 'cause he knew there'll be no more money coming to the project. THE COMMISSIONER: What's funny about it?---Well that's Dan's sense of humour.

Well what's funny about it?---Saying he'll fix the problem for 50,000.

40

No, he's not saying that?---Problem - spread around problem would vanish.

Spread around, what's spread around mean?---You'll have to ask him that. I don't, I don't really get it - - -

I'm asking what do you understand that to mean?---I don't, I understand it as being his humour.

I know?---That's the way I understand it.

It's not an answer. Well I'll tell you what it seems like to me and you can comment on it, are you saying the 20,000 problem could be made into a \$50,000 problem - - -?---Mmm.

- - - and then spread around, that is all the people involved could be paid some part of the \$50,000 and you just think of a way in which to charge the Art Gallery and the problem would disappear?---Well the Art Gallery wasn't charged 50, it wasn't charged - - -

10 Well that's what it - I'm asking you to comment on that - - -?---It wasn't charged, they weren't charged \$20,000.

'Cause it didn't happen - - -?---It - nothing - - -

Any volunteers?---Hey?

Any volunteers he says?---That's why - - -

20 He says I could see the sharing of money might quieten down the problem?
---That's Dan's sense of humour.

Why is it funny?---Well that's what, that's what he's like, he said he'll fix the problem for a cost. Look you'd really have to ask him.

Well I'm asking you because you've got that?---Yeah.

You got the email and I just wondered what you thought?---(No audible reply)

30 You're not prepared to tell me?---I've got nothing to tell you, I just, I just - 'cause I, 'cause I know he didn't pay any extra.

MR STRICKLAND: Could the witness please be shown exhibit R29. Email on 10 November from Peter Roche to Charlie Diekman 10 November 2009 and then - thank you. If you just want to go to the first email from you to Mr Roche - - -?---Ah hmm.

- - - on 9 November?---Ah hmm.

40 You write to him I'm owed 42.5K, I've paid out to Dan Terry Thakral, 175 Liverpool, 5K (not transcribable) UWS. Just read the rest of it and tell me when you finish?---Yeah.

So that email states that you have paid 42 and a half thousand dollars - - -?
---Mmm.

- - - and you've paid that amount to you mentioned five, three people or two people and three other entities. In relation to Dan what did you - what was

the - how much of that 42 and a half thousand had you paid to Dan?---Well I don't recall paying him anything.

I beg your pardon?---I don't recall paying him anything.

THE COMMISSIONER: So why did you write and say that you paid?---I, I don't know, I recall it, it's - - -

10 Were you lying there?---Could have, I just don't recall it?

Could have been lying?---Yeah.

MR STRICKLAND: Why would have lied there?---I, I don't, I said I don't remember the email and seeing it now it doesn't really ring any bells.

20 Okay. Well forget the email. That had you paid any money to Dan Paul other than the \$20,000 gambling debt you gave evidence about earlier today, this afternoon?---I owed Dan from time to time money for other gambling and also tickets, I'd buy - maybe it was for tickets for - - -

THE COMMISSIONER: Well it couldn't have been gambling because the (not transcribable) - when you unless - well when did this gambling take place for which you owed him this money let me put it - ask you that?---I can't recall exactly, it could, could be for tickets, we buy a lot of tickets from him for football games and concerts. I don't, I just don't know, don't really have any detail.

30 MR STRICKLAND: Yeah. But you didn't - he doesn't have detail but you must know because you paid it to him?---I, I don't know, I - - -

Do, do you pay money to people and then have no idea what the money is for?---I paid money to people three years ago, four years ago and I don't, I just don't recall it.

Not four years ago it's less than three years?---Well three years ago. I've paid people a year ago and I don't recall it.

40 Well who - what, what - who's the Terry you refer to there?---(not transcribable)

I beg your pardon?---I assume it's Terry Yallouris.

Yeah. And why did you pay money to Terry Yallouris?---Consultancy work maybe, I don't know.

Well - - -

THE COMMISSIONER: What work?

MR STRICKLAND: Consultancy work you said.

THE COMMISSIONER: Consultancy work.

MR STRICKLAND: Well what consultancy retainer did you have Mr Yallouris on? Consultancy agreement did you have with Mr Yallouris - - - ?---I didn't have any, I didn't have him on any agreement that he helped us out.

10

THE COMMISSIONER: So why didn't he just send an invoice to Kings and get Kings to pay him, why did you pay him?---I don't, I don't know.

MR STRICKLAND: Well that was connected with the Art Gallery wasn't it? Is assistance to Kings in relation to the Art Gallery. Is that why you paid him?---I don't know.

Well so you say you could have?---Could have been..

20

Yes, and why would you pay, why would you personally pay money to Terry Yallouris in relation to the Art Gallery job?---I have to go back through records, I just don't recall.

Well Mr Diekman, if you've paid money to Terry Yallouris, you must have an idea why mustn't you?---I don't – it could have been for something - - -

I didn't hear that sorry?---I bought some, I bought some bars and handles and stuff off his, from his Harley, but that was just recently, that was 2011. My Harley Davidson bike.

30

Did you pay Terry Yallouris any money - - -?---I cannot recall.

- - - in return for favours he gave you for the Art Gallery tender?---No, I didn't.

But you're saying it might have been – it might have related to the Art Gallery you said?---No, you said that.

40

And you agreed with it and the record will show that?---Okay. Well, when you agree that that was possible - - -?---Yeah.

- - - was that the truth or not?---I don't know. Look I'm getting really tired now, I don't think I can, I'll more clearer in the morning to continue on.

THE COMMISSIONER: I haven't noticed any difference between the morning and the afternoon. Is this just an excuse?---No, it's not an excuse. I'm probably rushing my answers because - - -

MR STRICKLAND: Well I'd like to continue, Mr Commissioner.

THE COMMISSIONER: Yes.

MR STRICKLAND: Not for long but just with this – I'd like to finish this email if I could.

THE COMMISSIONER: Yes.

10 MR STRICKLAND: Who is – what is Thakral?---It's a building.

Yes. And why do you pay money in relation for Thakral?---I can't recall.

What's 175 Liverpool, five k races, what does that refer to?---Probably we went to the races.

Who's we?---Some people from there.

20 Right. What does UWS refer to?---The job we're doing.

Right. Why did you pay money from your own account in relation to UWS?---Maybe stock, maybe contractors.

But why did you do it rather than Kings, out of Kings own bank account?
---I don't know.

THE COMMISSIONER: Or maybe corrupt payments Mr Diekman?---No.

30 MR STRICKLAND: Do you recall who you paid at UWS?---No.

The name of the person?---No.

I beg your pardon?---No.

I've asked you a number of questions over three days - - -?---Yes.

- - - about cash payments you have made to contractors and you have not been able to give the name of a single contractor?---That's right.

40 Not the surname, not the first name, not the name of the company, nothing?
---Mmm.

That's true isn't it?---Yes.

What's all still owing 10K to Thomo? Who's Thomo?---I'd imagine Paul Thompson.

And why did you owe Paul Thompson \$10,000, Mr Diekman?---He had a software company that we were buying stuff from, ICT Technology or something.

THE COMMISSIONER: So why didn't Kings pay?---Hey?

Why didn't Kings pay him?---I don't know.

10 Why did you pay him?---I, I had the cash and, yeah, maybe he didn't want to be paid on the books.

MR STRICKLAND: Was it related to the – Paul Thompson was instrumental in, Paul Thompson was instrumental in the Art Gallery tender wasn't he?---Yes.

Was that \$10,000 for the Art Gallery tender?---No, I believe it was for his software company.

20 You say we'll have another 12K coming up with the defence job. What does that relate to?---That's what Paul Thompson was providing us.

That's in addition to the 10,000 is it?---Yeah.

10K to Thomo and will have another 12K with the defence job?---Yeah, yep.

That's 22,000 for that matter was it?---Yeah, yeah.

30 And what's the, what precisely did you owe or were you going to owe \$22,000 for? What exactly?---A speaker system.

THE COMMISSIONER: So what job was the defence job?---I'm guessing this, I'm sorry, I really am guessing.

What, what job is the defence job?---I can't recall.

Mr Diekman, just tell us what the defence job is?---I can't, look we do that many jobs - - -

40 And now you can't, you can't even remember what defence job it is. Is that a job for the Commonwealth Defence Department?---Well it would have been subcontracted to them, yeah.

And what job?---Well it was either something at Waterhen or something at Garden Island.

MR STRICKLAND: All this money is referring to cash that you were going to pay wasn't it?---Mmm. Yes.

So why did you pay him \$12,000 cash for subcontracting for the defence job?---I don't know, that's, I've offered them cash.

Yes, why?---That's what I've been doing.

I beg your pardon?

10 THE COMMISSIONER: Do you think the Defence Department will be happy to learn this?---Well it's for stock, I just cannot recall the exact details of everything yet.

MR STRICKLAND: What about another 5K for UWS, what did that refer to?---I don't know.

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

You're not sure. Is that the answer?---Yeah.

20 Why did you write not sure where we sit with Dan? What did that mean? ---I don't know.

That refers to Dan Paul doesn't it?---Yes, I assume so.

THE COMMISSIONER: You're not sure about the cash payments you have to make to him?---No, well it might be Dan Roach from the factory. I don't know.

30 I beg your pardon?---It might be Dan Roach from our factory.

What?---Well it says I'm not sure where we sit with Dan. It could be anything.

MR STRICKLAND: That's all I have, Mr Commissioner.

THE COMMISSIONER: Yes, do you want to continue tomorrow?

40 MR STRICKLAND: Yes. But could we go either at 10.30 or 11.00am tomorrow.

THE COMMISSIONER: 10.30.

MR NAYLOR: Commissioner, I have a long standing prior commitment tomorrow, might my instructing solicitor (not transcribable) tomorrow?

THE COMMISSIONER: Yes, certainly. Adjourned til 10.30 tomorrow morning.

**AT 4.04pm THE MATTER WAS ADJOURNED ACCORDINGLY
[4.04pm]**