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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 THURSDAY, 28 JUNE, 2012

AT 10.21AM

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THE COMMISSIONER: Ms Furness.

MS FURNESS: Commissioner, I seek your leave to appear for the Northern Sydney Local Health District and the Central Coast Local Health District. And I anticipate some witnesses who may well be called in the next stage.

THE COMMISSIONER: Yes, very well.

10 <DAVID ANDREW McMICKING, on former affirmation [10:21am]

MR STRICKLAND: Could the witness please be shown Exhibit D40? D40 AHS 99. Can I just get you to look at page 100, please. Were you aware that a Spectra Security alarm system was installed at Huskic's cousin's place?---Yes.

And how did you become aware of that?---I was requested to arrange the installation of that.

20

And is that the – if you go to D page 100 and 101 does that remind you of what it was you actually installed in Robert's cousin's place?---It doesn't remind me of that, but it would possibly be that, yes.

And just having a look at page 101 and look at the actual equipment details that were installed. That \$300 cost is a long way below the market value of those items isn't it?---It would be, yes.

30 Given you've had some experience in what an ordinary retail rate for those items would be back in 2006. Would that be right?---(No Audible Reply)

What would be the approximate market value of those items back then? ---For the supply and installation of that?

That's correct?---Twelve hundred dollars approximately.

And what about, what about the actual cost of the goods?---The cost of those goods to, to Kings Security or to – as a retail price?

40 Well let's say this was an ordinary client - - -?---Yes.

- - - how much would it cost to supply and install those, that equipment? ---Approximately twelve hundred dollars.

Okay. So if you go to page 102 you'll see that the actual cost of installation is \$50 times four, four hours \$200. Would that be a normal installation cost?---That would have been our, our cost rate for that.

Okay. In any event if you add 200 plus 300 is 500. He's got about a \$700 reduction. Is that right?---It suggests that, yes.

And do you know why Robert's cousin would get a \$700 reduction from Kings?---No, I don't.

THE COMMISSIONER: Well, it was to please Robert wasn't it?---It could be said that, yes.

10 MR STRICKLAND: Is there any other reason you can think of?---No, I can't.

Now, if you could look at - if the witness please could be given D42. That's AHS 134?---Yes.

And do you recall arranging for the installation of the security grilles and the locking system at Robert Huskic's house in Hawkesbury Avenue, Dee Why?---I do.

20 And do you recall if Mr Huskic ever paid for that?---I don't recall that.

Was it your understanding this would be done for free for him?---I don't recall that, I don't - that is not my understanding.

That's not your understanding?---I don't, I, I do not remember that to be the case.

30 All you remember is you were asked to install, supply and install that equipment and, and you arranged for that, is that right?---Correct.

THE COMMISSIONER: When you said you don't know whether he's been paid, do you mean you don't - you said you don't remember whether he has paid, do you mean - well, I'm not sure what you mean by that. Do you mind explaining that?---Ah - - -

What do you say to the question has Mr Huskic paid for job number 40700? ---Yes, I do not know.

40 You never attempted to obtain payment from him?---Not that I recall, no.

And why not?---Collecting payments was not my, part of my works.

And checking up to see whether people had paid, was that part of your work?---No.

All right.

MR STRICKLAND: Do you know why Kings was installing that equipment at Mr Huskic's place?---I'd have been asked to arrange for the installation of those, that equipment.

Asked by whom?---By Robert.

And do you know whether when he asked you that he was expecting Kings to do that for free or at a reduced rate?---I can't recall that.

10 THE COMMISSIONER: Well, as I understand the evidence there's no evidence of Mr Huskic ever paying for this. Is there - assuming that to be so, can you think of an explanation for that?---No, I can't.

Do you know of anybody telling Mr Huskic that he need not pay?---Not that I can recall, no.

MR STRICKLAND: If the witness could be shown three documents, AHS 131, 130 and 136. And perhaps at the same time he could be, he could keep D42. I'll just take 131, do you recognise that as a job, a separate job bearing
20 a separate date, being 1 July, 2008 to install deadbolts and locks at Mr Huskic's house on that date?---I see it to be that, yes.

I tender those three pages.

THE COMMISSIONER: Well, the three pages marked 131, 130 and 136 which all relate to the provision of locks to Mr Huskic's home in Dee Why will be marked Exhibit M4, M4.

MR STRICKLAND: Mr Commissioner, because there are two different
30 installations, could we, could one of the markers, one of the descriptive items be that it was job 38887?

THE COMMISSIONER: Yes.

MR STRICKLAND: Because that distinguishes it from the earlier job.

THE COMMISSIONER: Yes, these, the description of Exhibit M4 should include the fact that the documents all relate to job number 38887.

40 MR STRICKLAND: Were you aware that there was another job done by Kings in relation to Mr Huskic in relation to locks and bolts, i.e. are you aware of this particular job?---I am aware of this particular job.

THE COMMISSIONER: That is 38847?---Yes.

MR STRICKLAND: And did you arrange for the installation of those locks and bolts?---I think I asked our locksmith department to arrange for the installation of those locks and bolts.

Now, have you still got that document in front of you?---I do.

Just go to page 136?---Yes.

And I'm not suggesting you, I'm not, there's no indication on the face of it you've seen this document, but you can see that there's an email below from Ms Helene Panarkis. Who is Ms Panarkis?---She was in our accounts department.

10

Right. And then it's got an email from there to Factory Kings Security. What's Factory Kings Security?---That's where we made our steel, steel security doors and, and grilles.

20

So you can see that she writes to Factory, there's an invoice that's been attached, "Is Robert Huskic paying for this personally or was it a hospital account?" And then there's a reply from Factory, "For your information there are a few jobs in the system, Robert Huskic, Steve Turner, that are non-chargeable but they are in the system until Greg Poller can cost it to the factory." Do you know what that refers to, items, jobs being non chargeable in the system, do you know what that refers to? ---I don't.

So in relation to job 38887, do you know whether Mr Huskic paid for that job?---I don't.

Do you know if the arrangement was that it should be installed at his unit for free?---Not that I can recall.

30

Did Mr Huskic, when you spoke to, did you speak to Mr Huskic about this job?---Yes, I have spoken to Mr Huskic about this job.

And what, what did you, what did you talk to him about, what did you say, what was the discussion?---I can't recall that discussion clearly.

Well, forget, just what was the substance of it, what was the guts of the conversation?---That we did some locks at his, at his, at his house.

40

Did you have that discussion, when did you have that discussion? ---A couple of months ago.

Right. And how was it you came to have a discussion about that?---I visited his, his property.

Yep. For what purpose?---To try to remember works that were, that I'd been involved with.

And why did you want to try and remember that?---So that I, to recall events.

THE COMMISSIONER: For the purposes of this investigation?---Correct.

MR STRICKLAND: And well what did you say to him and what did he say to you? We're not asking for word for word, but more or less what was – what did you say and what did he say?---I think it was along the lines that, that he, with these locks, had paid us cash for these, this installation.

10

That's what he told you in this conversation two months ago?---That was our, from my recollection our conversation.

THE COMMISSIONER: And what did you say?---I think I agreed with that.

MR STRICKLAND: So when you say you agreed with it do you mean – is it true that he paid cash for these, for both of these installations?---I do not know that.

20

So why did – when you say you agreed to that what do you mean when you say you agreed to that?---That - - -

Do you mean you agreed that that's what you would say?---That is correct.

So you agreed that you would lie about that if asked?---Yes.

THE COMMISSIONER: And you changed your mind?---Yes.

30 MR STRICKLAND: And what else was said in that conversation?---There was discussions about the alarms, I was trying to understand about the installation of the alarm system at his house.

Yes. What else was discussed about that?---That, because I had little recollection of that and it was that we installed the alarm at his cousin's property and he paid, cash was paid to the technician.

That's what he said in this conversation two months ago?---Correct.

40 And did you agree that's what you would say if asked at the Commission? ---Yes.

And that would be a lie wouldn't it?---I do not know.

But nevertheless the fact that you were prepared to say that there was cash paid when you did not know that, that would have been a lie wouldn't it? ---If I didn't know, yes.

Yes. And you didn't know. In other words - - -?---I couldn't recall it to be the case.

Well is this the case, Mr Huskic was saying that I paid cash for the security installations for my cousins place. Correct? That's what he was saying to you?---Yes.

And he was saying and that's the story we have to give to the Commission. Correct?

10

THE COMMISSIONER: Words to that effect?---Words to that effect.

MR STRICKLAND: Now before you went to Mr Huskic's place in relation to two months ago obviously Mr Diekman or Mr Roche knew you were going to go there. Is that right?---No, I don't believe they did.

Well did you discuss with Mr – you obviously discussed with Mr Diekman or Mr Roche that there was an investigation by this Commission into the relationship between Kings and Mr Huskic. Correct?---Yes, that's correct.

20

All right. And it was part of that discussion with Mr Diekman and Mr Roche was that the Commission would be investigating any gifts provided by Kings to Mr Huskic. That's right isn't it?---I don't believe I had that conversation with Mr Roche.

Okay. But you did with Mr Diekman?---Yes, I believe I've had a conversation with Mr Diekman.

30

Right. And what was that conversation?---There was a conversation, I don't recall when, regarding the, the accommodation to be paid in Las Vegas.

Yes?---That I was to, I recall it as I was to agree that in checking out of hotels I was reimbursed for that accommodation.

So Mr Diekman told you that if you were asked at the Commission whether you had been reimbursed by Mr Huskic for the accommodation at Las Vegas you were to lie and say you were reimbursed, is that right?---That is what I recall, yes.

40

So in relation to that subject he asked you to lie to the Commission, is that right?---It could be said as that, yes.

Well, when you say could be said, that is true, isn't it?---That is what he asked me to say.

And you knew that was a lie?---I did.

I beg your pardon?---Yes, I - - -

You did?---Sorry, I knew that I hadn't received money at that time.

And he knew that too, didn't he, because he was asking you to say that. There was an agreement between the two of you that that would be the story you would say to the Commission, correct?---Excuse me, yes, that is correct.

10 And did you discuss with him the consequences of lying to the Commission for you?---No, I did not.

THE COMMISSIONER: Did you discuss the consequences of lying for him?---No, not that I recall.

MR STRICKLAND: And did you discuss with Mr Diekman the - did you discuss with Mr Diekman -sorry, I withdraw that. And in fact when you did give evidence at a private hearing you did lie about that subject didn't you? ---I did.

20 But that lie was said at the directions of Mr Diekman, is that correct? ---That's what we agreed, yes.

So is the answer to that question, yes?---I would say yes.

And did you discuss with Mr Diekman the gifts that you gave to Mr Huskic in the middle of last year, being the phone, the PlayStation and the other items you got from Video Security?---Yes.

30 And what was your discussion with him about that?---I recall receiving a list of, a list of, of products.

No, my question is did you - I'm talking about in this discussion - - -? ---Sorry.

- - - of what you said, were going to say to the Commission. Did you discuss with Mr - - -

40 THE COMMISSIONER: Did you discuss the list with him as well?---No, I don't recall, I don't recall a discussion about what was to be said re the list.

MR STRICKLAND: If I can go back to the conversation you had with Mr Huskic at his home a couple of months ago, did you talk to him about Kings providing the Vespa scooter?---I may, may have, yes.

And what do you recall in general terms about that discussion?---It was that I had purchased a jacket following the purchase of the Vespa, following the purchase of the Vespa scooter.

And was there an agreement that you were to say the truth is in relation to that that you paid - Kings paid \$300 for that jacket, is that right?---That is correct.

And was the discussion that Mr, did Mr Huskic say, was there an agreement between the two of you that you should say that Mr Huskic paid you paid or paid Kings back for that?---No, I don't believe that to be the case.

10 Was there any discussion with Mr Huskic about Kings paying him cash?
---Not with me.

So was it your idea to go to Mr Huskic's house to discuss these things a couple of months ago?---It was.

But you – and you hadn't discussed it with anyone else at Kings before you went?---No I hadn't.

20 Okay. Was there anything else you discussed with Mr Huskic at that meeting a couple of months ago?---That's all that I recall.

Could the witness please be shown AHS 172 to 175 with some attachments. Do you recognise that email from Mr Diekman to you on 19 May, 2009?
---Sorry, page number?

The first document, 172?---That's, oh yes, the top line.

The top line?---Yes.

30 All right. I tender that, I tender those six pages which commences with the email from Mr Diekman to Mr McMicking dated 19 May, 2009.

THE COMMISSIONER: The bundle of six documents, the top document being an email from Mr Diekman to Mr McMicking on 19 May, 2009 will be Exhibit M5.

**#EXHIBIT M5 - EMAIL FROM MR DIEKMAN TO MR THEISSEN
DATED 25 MAY 2010**

40 MR STRICKLAND: Thank you. Now you see the email below, the first email, that is the first email in time at page 172, is an email from Robert Jones to Charlie Diekman. Do you know whose email that is?---I know that to be Robert Huskic's email.

All right. And do you know why – is Robert Jones an alias of Robert Huskic?---I believe so, yes.

Is that what he told you?---Well I don't know about sorry the word alias and how it relates to that, but - - -

Well a false name?---Yes.

THE COMMISSIONER: It's a name that he uses sometimes?---Yes, he's sent me, yes.

MR STRICKLAND: So this obviously is not a work email address is it?
10 ---No, it is not.

That's a separate email address. Is that correct?---That's to my understanding, yes.

So do you know why he sometimes used the name Robert Jones?---No, I don't.

All right. But you received emails from this email address from time to time. Is that correct?---I have done, yes.
20

All right. And when you received those emails from that address what was the nature of those emails?---I think the times that I've received emails to that – from that address is when we were, at the time we were – the year that we were going to Las Vegas.

I see. So when you got an email from the Robert Jones email address did you understand that was to do with gifts or benefits that Kings would be providing Robert Jones?---It wasn't necessarily my understanding, but, no.

30 Well you would not have expected to receive an email like this one asking for a jacket from his official AHS address would you?---No. I believe this was his – the email address from – his home email address.

Okay. Now in that email he asks Mr Diekman about a jacket that he found in the city. I just want to ask you about one sentence in the email, this place in the city has a nice jacket that would suit me down to the ground. See what you can do. I'm using a mate's jacket at the moment as he isn't riding due to busted bike. And that email is then sent on to you isn't it?---Yes, it is.
40

And you then purchased that jacket. Is that right?---That's correct.

You actually went down physically to purchase the jacket?---That's correct.

And if you go to the last page in that bundle and you see a credit card detail, a credit card invoice or document?---Yes.

And is that your signature at the bottom?---It is.

THE COMMISSIONER: Is this your personal email account?---Email account?

Sorry, credit card account?---A company credit card it would have been, I, I would believe.

MR STRICKLAND: A Visa business card?---Visa business card, it's a company, company card.

10

And so when you bought the jacket, did you then deliver it personally to Mr Huskic at some stage?---I don't recall that, but I believe I, I don't recall that.

You either delivered it yourself or you arranged for the delivery of it?
---I would say that, yes.

And to your knowledge he never paid for it?---I don't know that. Not that I'm aware.

20

So what kind of client is it that writes to your boss, says there's a nice jacket I'd like, see what you can do, see what you can do, and then your boss asks you to use your valuable time to go to a shop and buy it and arrange for its delivery, why would you be doing that for him?---For- - -

For Mr Huskic?---For Mr Huskic?

Yeah?---At the, well, I was doing it for, at the request of- - -

30

Mr Diekman?---Mr Diekman, yes.

Yes, sure?---Yes, yeah. And I was told at, at that time that it was, I think it was following on from a scooter that had been purchased and that it was, that's what I was doing, yeah, just to go down and arrange for that jacket.

THE COMMISSIONER: You'd been told that this was a gift for him?
---Sorry, the jacket?

Yes?---I don't know it to be, I was told that it was for works done on his, on his boat.

40

MR STRICKLAND: And that that includes the jacket, you were buying him the jacket because of works done by Mr Huskic on Mr Diekman's boat. Is that what you were told?---That's what I was told.

THE COMMISSIONER: So there was no, by telling you that it was for work done on Diekman's boat you were being told that there was no intention to pay for it?---I don't recall, I would assume that to be the case, yes.

So you would assume that either it was a genuine form of repayment for work done on the boat or it was a gift. It could only be one of the two?
---Yes.

Never any expectation that it would be repaid?---Not that I'm aware of.

MR STRICKLAND: Could the witness please be shown Exhibit D51 and D52. I'm sorry, and also R27, please.

10

THE COMMISSIONER: Sorry, R?

MR STRICKLAND: 27. Cheers. So if we just go to D52 first?---Sorry?

D52, Charlie Diekman to Robert Huskic email, page 175 at the top?---Yes.

So I'm not, I'm not suggesting that you received this, but I want to put the email I want to show you in some context. So on 1 June, 2009, Charlie has asked Mr Huskic to chase up a tax invoice as attached as at page 180?

20

---Yes.

If you could look at 180. And you're familiar, aren't you, with the work that Kings did at the Wyong Hospital?---I have some recollection of this, this job, yes.

All right. And if you look at the, if you look at the date of the invoice it's dated 5 July, 2008?---Yes.

30

That's some eleven months late or overdue but the time that this 1 June, 2009 email is sent, is that correct?---It appears to be that way, yes.

Right. And then if you go to D - I'm sorry, if you then go to R29. I'm sorry, that's the wrong - I beg your pardon, that is the wrong - - -

THE COMMISSIONER: I think you said 27 originally.

MR STRICKLAND: I meant 27, I beg your pardon, thank you.

40

If you go to R27. Were you aware that Mr Diekman provided Mr Huskic a scooter?---I was.

Right. And if you go to page, if you go to the attachment at page 239 and you go to the last page of that attachment, you'll see that there was a tax invoice from Scooter Central to Kings Security, the total being \$10,000 minus one cent. Do you see that?---Sorry, which page is - - -

Could I, could I please have Exhibit D27, I'll just - - -?---That's R27.

Can I have a look at R27. I'll just tag for you the figure that I want to show you, no, that's the wrong, that's the wrong document. My - well, that's different from my R27. I see, I think it's been, it's been copied in a different way, I'll just change my document. It's the same document but it's been copied. It's okay. Just have a look at this if you could and we can arrange that. Now, can you see with Exhibit R27 the total cost of that is, the scooter is \$10,000?---Yes.

10 And did you - what did you know at the time about why it was that Charlie Diekman was providing Robert Huskic with a \$10,000 scooter or why Kings was doing that?---I, I was told when purchasing the jacket that he had provided the scooter for works done on his boat.

And who told you that?---That was Charlie Diekman.

And did he tell you what the value of the work – what kind of work was done on the boat?---No, he didn't.

20 Or the value of that work?---No, he didn't.

Or when the work was done?---No, he didn't.

Now bearing those documents in mind, if you can just go to D51 - - -

THE COMMISSIONER: I think you should, you should tender the different documents so that there's no misunderstanding. Or are you going to - - -

30 MR STRICKLAND: I think they've all, haven't they all been tendered?

THE COMMISSIONER: I don't have - - -

MR STRICKLAND: All of them are Exhibit, all the documents that I've shown him in this particular subject are exhibits, in other words I've tendered them.

THE COMMISSIONER: R27?

40 MR STRICKLAND: That's right. What I've show - - -

THE COMMISSIONER: Well my R27 does not show an amount of \$10,000.

MR STRICKLAND: Simply because it's been copied in the wrong way. It's the same document but it's been copied in the incorrect way.

THE COMMISSIONER: Well it should be recopied and distributed.

MR STRICKLAND: Yes, it should be.

THE COMMISSIONER: Yes Mr Lloyd.

MR LLOYD: Commissioner, I'm having real troubles and I'm sure those behind me are following the documents, R27 that we have nowhere on it has \$10,000.

THE COMMISSIONER: No, I know, that's what I've just said Mr Lloyd.

10

MR LLOYD: Indeed. But your Honour, the exhibits that are coming, we're getting them in uncertain fashion that after the event my eyes are bad and I can't see these screens. I like to look at the hardcopy and I think it would assist all of us if Counsel Assisting, and I'm sure he's endeavouring to do his best, told those behind him distributing them what is coming so that they can distribute them to us. I'm finding this quite hopeless because I have very bad eyesight and I need the hardcopies. The screens are fine but I don't have one in front of me to see it. And if I can't follow the cross-examination on the hardcopy I'm lost.

20

THE COMMISSIONER: Well Mr Lloyd, I assume that when you are lost you will let me know.

MR LLOYD: I'm letting you know now, your Honour.

THE COMMISSIONER: All right. Thank you. Now Mr Strickland, I think we best get – will you just please arrange for this document to be properly copied and distributed.

30 MR STRICKLAND: Yes. Well shall I do that now?

THE COMMISSIONER: Yes.

MR STRICKLAND: Okay. Well I will.

THE COMMISSIONER: Well we'll take the tea adjournment now.

MR STRICKLAND: Certainly.

40 THE COMMISSIONER: And perhaps you could – if you could find out what other documents there are complaints about and they can be dealt with.

SHORT ADJOURNMENT

[11:01am]

MS LONERGAN: Commissioner, thank you for that.

THE COMMISSIONER: Yes, Ms Lonergan.

MS LONERGAN: I've had a discussion with Mr Lloyd and got to the bottom of what the problem was with the understanding of the exhibits list procedure. The difficulty arose, your Honour, because we commenced the list this morning with M4 and Mr Lloyd and his junior were concerned that they had missed M1, M2 and M3. Commissioner, I've had some discussions with Mr Lloyd and various other members at the bar table and have determined that perhaps a better way to approach it would be to follow the pattern that we have to know which is to make the current witness bundle Exhibit 4 and then number them M1, M2, M3, accordingly.

THE COMMISSIONER: Yes.

MS LONERGAN: So, Commissioner, if you're happy with that course that's what I propose.

THE COMMISSIONER: Yes. Well, that course will be adopted.

20 MS LONERGAN: Thank you, Commissioner. So that will mean that the first two exhibits that were tendered today, the first being the customer job number account and associated two pages numbered 131, 130 and 136 should be Exhibit M1.

#EXHIBIT M1 - CUSTOMER JOB NO ACCOUNT AND ASSOCIATE TWO PAGES NUMBER

30 THE COMMISSIONER: That's correct.

MS LONERGAN: Thank you, Commissioner. And the second exhibit should be Exhibit M2 and that was the six-page document commencing 172 associated with the transaction regarding Mr Huskic's jacket.

#EXHIBIT M2 - EMAIL FROM MR DIEKMAN TO MR MCMICKING DATED 19 MAY 2009

40

THE COMMISSIONER: Yes, the email from Mr Diekman to Mr McMicking of 19 May, 2009 is the (not transcribable).

MS LONERGAN; Thank you, Commissioner. Commissioner, there's been a bundle of documents prepared for the rest of Mr McMicking's examination. Commissioner, I would appreciate some guidance as to whether I ought to read onto the record the rest of the bundle and an

appropriate title for each document or whether, Commissioner, you'd prefer an alternative approach to the rest of the exhibits?

THE COMMISSIONER: Well, can't we just deal with it as the documents come?

MS LONERGAN: I'm content with that course, Commissioner, and I have undertaken to Mr Lloyd and his junior that I would personally assist them in relation to any document they don't understand or that's not copied correct.

10

MR STRICKLAND: (not transcribable)

THE COMMISSIONER: Thank you for that and so we've now got to M - we've got to M2 have we? I've just to make sure that my notes are correct. So we've dealt with M2, M1 and M2 and the next exhibit from Mr McMicking will be M3.

20

MS LONERGAN: Yes. Commissioner, Mr Strickland's advised me that the others at the bar table have a preference for tendering the documents in a bundle and then going through them with the witness (not transcribable) if that suits the Commissioner we are anxious to ensure that those at the bar table are catered for.

MR STRICKLAND: And the investigators.

MS LONERGAN: And the investigators prefer that as well, Commissioner.

THE COMMISSIONER: Well who am I to stand in their way.

30

MS LONERGAN: Thank you, Commissioner.

THE COMMISSIONER: It might not suit me, but there it is. So now what do you want me to do?

MS LONERGAN: Commissioner, I tender a bundle of documents which, excuse me, which will be marked M3 and will be dealt with by Strickland in turn with Mr McMicking, with identifying pages referred to as he deals with each document.

40

THE COMMISSIONER: Very well. So that, the basic problem with this course is that if you've got a document called M3, which is an exhibit, then there are a large number of documents that are not properly identified for the purposes of exhibits.

MS LONERGAN: Yes, your Honour. The other option would be that I could read on to the record an appropriate description of each document in the proposed M3.

THE COMMISSIONER: Yes. I don't think that's necessary, but I think care must be taken at all times to ensure that when a witness is asked a question about a document that a full description of the document be given so that we, everyone can know what – to which document reference is being made.

10 MS LONERGAN: One alternative would be that I can prepare a list of the material in bundle M3 and provide it to my learned friends. I would be able to do that in the luncheon adjournment. That may not solve the problem immediately.

THE COMMISSIONER: No, that doesn't solve the problem.

MS LONERGAN: Yes. Excuse me, Commissioner. Mr Strickland has made another suggestion that each stapled document of which there 11 in the proposed M3 be tendered as M3, M4, M5 accordingly.

MR LLOYD: Agreed.

20 THE COMMISSIONER: Yes, that of course will defeat what you've already said.

MS LONERGAN: Yes, your Honour. Mr Lloyd behind me has said agreed. And again I am anxious to ensure that counsel at the bar table are catered for appropriately. I can't see any shortcut around - - -

30 THE COMMISSIONER: Look I really think we should just follow the same course previously. We'll have a separate bundle of documents for Mr McMicking that will be marked M1, 2 and so on as we get to them. And these documents marked M will all be part of Exhibit 4.

MS LONERGAN: Yes, Commissioner.

THE COMMISSIONER: Which we have done with every other witness so far.

MS LONERGAN: Yes, Commissioner.

40 THE COMMISSIONER: And I see no reason to change that.

MS LONERGAN: Yes, Commissioner.

THE COMMISSIONER: So that what I suggest we do, and if there is an objection to this, take the bundle which you have and as the documents are used they will be independently tendered and given a number M3, M4 as we go along and so on, which we've done with every other witness. Is that a problem?

MS LONERGAN: That's solves the problem in my view, Commissioner.

THE COMMISSIONER: All right. Well let's do that.

MR STRICKLAND: Now have you got - - -

THE COMMISSIONER: Mr Strickland, I'm sorry to interrupt you, but I want to just make one further announcement. At this stage, generally which is a, a further addition to the scope of the investigation. The Commission in this inquiry will also be investigating allegations that Kings through one or more of its directors terminated the employment of Samantha Jarvey on account of her assisting the Commission or giving evidence to the Commission and thereby breached section 93 or section 94 or both of those sections of the ICAC Act. Yes, Mr Strickland.

MR STRICKLAND: So have you got D52, D51 and R27 there?---Yes.

And is this the case, that in May, 2009 Kings paid \$10,000 for a scooter for Mr Huskic?---I don't know if it was Kings that paid \$10,000 for the scooters.

All right. Well if you look at R27 there's a tax invoice to Kings from Scooter Central in the sum of \$10,000. Do you know who paid for that? ---Well it has Charlies name underneath the, the details of the Kings address.

Do you know who paid for that?---No, I don't.

On 1 June, 2009, a bill, a tax invoice for 8,250 has been sent from Mr Diekman to Mr Huskic to chase up. That's correct, isn't it?---Yes, that's what the email says, yes.

On 16 June, this is D51, the email from Mr Diekman to you, he has forwarded you a, I withdraw that. You have sent an email to Mr Diekman on 16 June saying, "All sorted, she's going to pay the 8,250. Do I get my commission for this?" Do you see that?---Yes.

That relates, doesn't it, to the tax invoice attached to D52, the 1 June email. That's right, isn't it?---That's correct.

And then Mr Diekman has replied to you, "You only owe 2K now for Rob's Vespa." Do you see that?---I do.

And that relates to the R27 invoice, doesn't it?---I don't know what that relates to.

Well, there's nothing else it could relate to, could it, that is, the only thing that could relate to, that email that you received, is that Kings purchased a

scooter, a Vespa scooter for Rob Huskic?---I don't know if it was Kings or Charlie.

Either?---Either, yes.

What I'm suggesting is, that is the only thing that that email from Charlie Diekman to you could relate to, that is, it relates to the purchase by Kings or Charlie Diekman of a \$10,000 scooter to Robert Huskic. Do you agree with that?---I agree with that.

10

And so if you, that suggests, doesn't it, that top email, that Kings or Charlie is out of pocket \$2,000, being the \$10,000 for the scooter minus 8,250 the tax invoice that they've paid, they're now \$2,000 out of pocket in relation to that particular set of transactions. Do you understand?---I see what you- - -

That's what you understood that email to mean, didn't you?---I don't know what that email means, no.

20

Well, you see, there were three relevant, there were two transactions- - -?
---Yes.

- - -both of which are referred to in this set of emails. Transaction 1 is Kings getting paid for their one-year-old invoice. Correct?---Correct.

Do you agree with that?---I do agree with that.

Transaction 2 is Kings paying for Rob's Vespa scooter. Correct?
---(No Audible Reply)

30

That's transaction 2 in the top email?---Yes.

And they've been linked in that email exchange, haven't they, obviously when you read it?---There is a link there but I don't know what that, that relates to.

Well, I'm suggesting that there's only one possible link when you do the sums and that is Kings have paid 10 for a scooter, they've got roughly eight back from a one-year-old invoice and now they're \$2,000 out of pocket.
---I don't have an- - -

40

And therefore he says jokingly, if you, McMicking, pay us \$2,000 for the rest of Rob's Vespa, then we'll be all square, Kings will be all square. That's what that means, doesn't it?---I would say it is saying jokingly.

Yeah?---That's, that's correct, yes.

I'll show you AHS, excuse me, Mr Commissioner. AHS189, 190. I tender that document.

THE COMMISSIONER: An email from Peter Roche to Timothy Maas dated 19 August, 2009 will be Exhibit M3, being part of - will be marked M3 and is part of Exhibit 4.

#EXHIBIT M3 AS PART OF EXHIBIT 4 - EMAIL FROM MR ROCHE TO MAAS REGARDING 2009 ASIAL GALA DINNER DATED 19 AUGUST 2009

10

MR STRICKLAND: Do you remember - what's ASIAL - sorry, I withdraw that. What does ASIAL stand for?---Australian - sorry, forgive me if I get the, forgive me if I do get it wrong but it's Australian Security Industry Association, I'm not sure of the L, Limited.

To your knowledge was it Kings' practice to shout a number of people a dinner for ASIAL?---Yes, we would take them to - there's an annual conference here in Sydney and - - -

20

THE COMMISSIONER: You said you would take them?---Sorry, we, I thought I said we.

Yes, you said we would take them?---Yeah, we, Kings.

Were taken?---I beg your pardon?

Someone took you?---No, no, no. Kings would take.

30 Well, that's what I'm getting at?---Yeah.

MR STRICKLAND: By take you mean pay for?---I don't, I don't, I know if we - I would assume we, we would pay for their, the dinner, yes.

Why do you assume that?---It was just an invitation to people and there was - within the industry, clients, to the gala dinner.

Thank you. Now, in that email Robert - your name is there, is that correct? ---That's - yes, that's correct.

40

And so at number 9 is Robert - is that Robert Huskic of Northern Health? ---That would be, yes.

And Brett Hansen from Northern - from Sydney Ports, is that correct? ---That is correct.

What was his job at Sydney Ports?---I do not know who Brett, Brett - I don't know Brett Hansen.

Thank you. I now show you a bundle of - an expense claim form plus bundles of invoices in relation to Las Vegas 2010.

THE COMMISSIONER: I'm sorry, Mr Strickland, what did you say? In relation to?

MR STRICKLAND: Las Vegas trip.

10 THE COMMISSIONER: Las Vegas.

MR STRICKLAND: 2010.

THE COMMISSIONER: Yes. So are you tendering this?

MR STRICKLAND: I tender that.

20 THE COMMISSIONER: Yes. A bundle of expense claim forms relating to Las Vegas, the Las Vegas visit in 2010 is marked M4 and is part of Exhibit 4.

#EXHIBIT M4 AND PART OF EXHIBIT 4 - BUNDLE OF DOCUMENTS AND INVOICES RELATING TO LAS VEGAS TRIP IN 2010

MR STRICKLAND: Do you have a copy of that?---I do.

30 If you just turn over to the second page. Is that your, is that a copy of your Westpac account?---Yes, it is.

That's your private account?---Yes, my private account.

Is it the case that in March 2010 you paid for accommodation for a number of the guests or delegates from your personal account?---Yes.

THE COMMISSIONER: Is that the delegates to Las Vegas?

40 MR STRICKLAND: I'm sorry. All these - thank you. All these questions I'm about to ask you relate to a single trip to Las Vegas in March 2010? ---Okay. May I ask you to ask the first question again please.

I will. But do you understand that these questions I'm about to ask you relate to that topic?---Yes.

The question is your evidence is as I understand it is that Kings arranged for the payment of Robert Huskic's accommodation at the Las Vegas

conference or trip in 2010, that's your evidence?---That is my understanding.

That has also been your evidence?---Yes.

Correct?---Yes.

And did you, did Kings pay for other delegates' accommodation at that trip?
---By delegates, what do you mean, delegates?

10

Other people?

THE COMMISSIONER: Attendees.

THE WITNESS: Ah, I do not know.

MR STRICKLAND: Thank you.

THE COMMISSIONER: Can I just clarify one thing, please, Mr
20 Strickland. Exhibit M4 I've described as a bundle of expense claims but
now I see that the bundle contains expense claims and other documents
regarding Las Vegas 2010.

MR STRICKLAND: I think it would, I would describe the bundle as, it's a
bundle of documents relating to the payment of accommodation at the Las
Vegas 2010 conference.

THE COMMISSIONER: Well, Exhibit M4 will be described as Mr
30 Strickland has articulated the description.

MR STRICKLAND: Now, these, I'm not going to go through all these
pages but I'll go through some. They are not paginated. So if we just go
through to the third page in the bundle which is described on the top right-
hand corner as page 4 of 4. Do you have that?---I do.

And you'll see under the date 22 March, 2010, there are five, six, sorry,
separate payments, each of \$168.58 in relation to Sheraton Fishermans
Wharf. Do you see that?---I see that.

40 And is that, does that represent payments that you have made from your
personal American Express card for accommodation for six people at that
restaurant or, sorry, or accommodation on that day?---It does.

Was that a restaurant or was it accommodation?---That's accommodation.

Thank you. And if you go, if you keep on going- - -

MR MAHER: Pardon me, Commissioner (not transcribable) four legal representatives at the back of the room who haven't got this bundle and it's not up on the screen. I represent Mr Roche, one of the directors and it's quite difficult, impossible for us to follow what's going on.

THE COMMISSIONER: I understand that. So can that be remedied, Mr Strickland?

MR STRICKLAND: No, it can't be at the moment.

10

THE COMMISSIONER: Can we put this on the screen then, is that not possible? Well, we'll just have to stop until the documents are- - -

MR STRICKLAND: Well, Mr Commissioner, I will, I will, what I will do is, I will not ask any more questions about this document and I'll move on, but I'll make sure that all relevant parties have copies of it.

THE COMMISSIONER: Should my associate now make arrangements for copies to be made or will that be done later?

20

MR STRICKLAND: Oh, that would be very convenient, thank you.

THE COMMISSIONER: So how many copies need to be made?

MR STRICKLAND: Four, I think I heard.

MR MAHER: I think it's four. Four, or five actually.

30

THE COMMISSIONER: Five. Okay. If you can proceed it would be preferable, Mr Strickland.

MR STRICKLAND: I will try and proceed.

THE COMMISSIONER: But if you can't we'll adjourn.

MR STRICKLAND: No, no, I'd like to proceed. Do you recall, do you recall that Kings sponsored a team that styled itself Stillbillies Golden Oldies Rugby Team?---I do recall that.

40

And that was at the request of Mr Kuiper?---That's correct.

And that was for a total sponsorship of some \$6,000?---That's what I believe.

And do you know why that was agreed to?---Mr Kuiper requested it on several occasions. He knew that we, that we sponsored a local rugby team which, and ah, he requested that.

Do you know of any other gifts that Kings – I withdraw that. Do you know of any gifts that Kings provided to Mr Kuiper's?---Only in reading the opening statement.

No. I'm asking you - - -?---Sorry.

- - - whilst – forget what - - -?---Yes.

10 What I'm asking you is to your knowledge whilst you were at Kings - - -?
---Yes.

- - - do you know whether, which includes now - - -?---Yes.

- - - did you know whether Mr Kuiper was given any gift by Kings or by someone on behalf of Kings?---I believe we did some, carried out some works at his home, some lock work at his home.

20 THE COMMISSIONER: Somewhat, lock work?---Lock smithing work, yes.

MR STRICKLAND: And when was that?---I cannot recall that.

And what was the value of that lock work approximately?---A couple of hundred, \$200, 100 to \$200 would be my estimate.

And was that provided free to Mr Kuiper?---I can't recall that.

Okay. Do you know, do you know if he paid for it?---I do not know that.

30 Do you know why he was provided with that work?---He, he requested it from, from me to arrange some lock work.

THE COMMISSIONER: But if I requested it from you Mr McMicking, I assume that you would require me to pay for it and you would immediately arrange for an invoice to be sent to me if through your agency I required lock work done at my premises?---Yes.

But you didn't do it in this case did you?---Not that I – I don't believe so.

40 So what's the difference between an ordinary customer and Mr Kuiper?---I don't know, sir.

Well I'm sure you do. You were trying to, you had a need to please him more than an ordinary customer. Is that not so?---I had built up a bit of a personal rapport with Mr Kuiper.

As one does with ones customers?---Yes, yeah. And, and carried out, arranged to have those works carried out.

For free?---Possibly.

Well you know, you know of no payment - - -?---I know of no payment.

- - - and you took no steps to charge for it?---Correct.

And you're the person who arranged for it?---Yes.

10 And was it your responsibility to send out an invoice and take whatever steps were necessary to recover payment were payment to be required?
---Not to arrange for the sending out of the invoice.

Well for the creation of the invoice?---No. It would have been our locksmith department that would have created the invoice.

So why did they not do that?---I do not know.

20 Did you tell them not to?---Possibly.

Right. But in fact there's no invoice. We have not been, the documents that have been disclosed to the Commission there's no invoice for this?---I can only agree with that if that's the case, sir.

MR STRICKLAND: And did you discuss with Mr Diekman the fact that this job would be done for Mr Kuiper?---I don't recall that, no.

30 Okay. Well for a free job to be done for someone would you need the approval of Mr Diekman or Mr Roche?---Yes, I should have, yes I should receive the approval of one of them.

Well apart from that you should have, you would have wouldn't you? You wouldn't have on your own but provide a free service on behalf of your employer without asking your bosses whether you could do that?---Probably not.

Well, when you say probably not in relation to Mr Kuiper, was he a particular friend of yours?---(No Audible Reply)

40 Was he a friend of yours that you socialise with outside of work?---We had been to a couple of social events together.

Just the two of you?---Not just the two of us, no.

In a group?---In a group.

Did you authorise any work for Mr Kuiper, that is the work - I withdraw that. Did you authorise any job on his house without the authorisation or

approval of Mr Diekman or Mr Roche?---Could you ask that question once again please?

Did you, did you arrange for any work done on Mr Kuiper's home, locks or the like, without the approval or authorisation of Mr Diekman or Mr Roche? ---I can't recall whether I'd seek their approval on that occasion or not.

10 You would not have, you would not have made such an arrangement to install something for free without their approval or authorisation would you, for Mr Kuiper?---I cannot recall whether I did seek their approval on that occasion.

THE COMMISSIONER: But you were asked - you were asked really whether it's likely that you would have done that without their approval? ---It's unlikely that I'd have done it without, without their approval.

MR STRICKLAND: Any other gifts you can recall that Mr - is there any other - is there any other gift or benefit that you can recall Mr Kuiper received from Kings?---I - he came to a couple of - I don't know, sorry, I recall a football match that he came to us with, I don't know if there was any more than that.

What do you mean he came to you with a football?---Oh, sorry. Came to us as in, sorry, he came to a rugby or rugby league game with a group and I can't recall.

THE COMMISSIONER: You paid the tickets for the - you paid his ticket, is that what you're saying?---I don't - I, I'm not sure who paid his ticket but I don't believe he paid his ticket.

30 And you invited him?---I did invite him, yes.

MR STRICKLAND: I want to suggest that that was the State of Origin in May 2010?---Ah - - -

If you can't recall say so?---I can't - sorry, I can't recall it as being that, no.

Okay.

40 THE COMMISSIONER: Mr Strickland, I think everyone's got copies of the bundle now.

MR STRICKLAND: Have they? Okay. I tender an email from Mr Diekman to Mr Theissen dated 25 May, 2010. I tender that and I'm told extra copies will come, I don't intend to cross-examine this witness on it.

THE COMMISSIONER: Sorry, I haven't seen the document so do you mind - I presume I will see it? All right. If you haven't got it can you just tell me what it is again, please, Mr Strickland?

MR STRICKLAND: It's an email from Mr Diekman to Mr Theissen, T-h-e-i-s-s-e-n dated 25 May, 2010.

10 THE COMMISSIONER: Yes, the email from Mr Diekman to Mr Theissen of 25 May, 2010 will be marked M5 and be part of Exhibit 4 and copies will be provided to everyone shortly.

#EXHIBIT M5 AND PART OF EXHIBIT 4 - EMAIL FROM MR DIEKMAN TO MR THEISSEN DATED 25 MAY 2010

MR STRICKLAND: Could the witness please be shown AHS 269 and 270. I'll show you a – two emails which you were copied into on 3 May, 2010.
20 Do you recall receiving these emails?---No, I don't recall receiving these emails. But I can see that I am part of these emails.

I tender an email chain or I tender two, sorry I'll withdraw that. I tender an email chain entitled Brooky Corp Box Details dated 3 May and 27 April, 2010.

THE COMMISSIONER: The email chain with the heading Brooky Corp Box Details, the last email being from Mr Roche to Mr Huskic of 3 May, 2010 will be marked M6 as part of Exhibit 4.

30

#EXHIBIT M6 AS PART OF EXHIBIT 4 - EMAIL CHAIN ENTITLED "BROOKIE CORP BOX DETAILS" THE LAST BEING FROM MR ROCHE TO MR HUSKIC DATED 3 MAY 2010

MR STRICKLAND: If I could ask you to look at the first email in time, Robert Huskic to Peter Roche where he suggests that Kings provide a corporate box at Brookvale Oval?---Yes.

40

I just want to ask you about one sentence in that email. Mr Huskic states to Mr Roche, "was there last night in the southern stand, that's at Brookvale Oval, and was really good night. Something to consider for those special clients, hint, hint." To your knowledge was Robert Huskic considered a special client of Kings?---Yes, I would say that, yes.

And in what sense?---They were one of our larger clients.

THE COMMISSIONER: No, not Mr Huskic?---Oh sorry, not Mr Huskic directly, no. No, as where he was working for I would suggest - - -

MR STRICKLAND: So who was at Kings regarded as the special client?---The Area Health Service.

I see. And

10 THE COMMISSIONER: But you weren't taking the Area Health Service to watch the Rabbits, you were taking Mr Huskic. You, you identified – I mean, and I suggest to you Mr McMicking that it was the practice of your company to regard Mr Huskic as the client not his employer, in practical terms that is. Is that right?---I don't know about Kings but I would always, sorry was the question to myself or as - - -

Well you've answered that in so far as it relates to Kings. How about yourself?---I would always see the Area Health Service as our client.

20 MR STRICKLAND: But you knew that Mr Huskic did certain favours for Kings in relation to that client didn't you?---No, I did not.

You did not know that?---Favours for Kings, no.

MR STRICKLAND: You didn't give - - -

MR STRICKLAND: That's right favours for Kings?---Not that I'm aware of, no.

30 Well it was Mr Huskic who continuously rang up Kings to provide, to obtain quotes and to give them jobs. Correct?

THE COMMISSIONER: On behalf of the Area Health Service?---That's correct.

MR STRICKLAND: And it was Mr Huskic who was influential in Kings getting jobs for the Area Health Service where there were other bidders or other companies bidding for that job wasn't he?---I don't know if he was influential or not.

40 THE COMMISSIONER: But he had the capacity to be influential?---I- - -

He was in an influential position, was he not?---My understanding, if I may, sir, of the process was that the quotes that were provided to the Area Health Service were forwarded on to the department- - -

Yeah---?- - -in, that the quotes were being done for and it was them that made a decision whether the- - -

You're not suggesting that Mr Huskic's recommendation was meaningless, are you?---I don't know if there was actually, I don't know of recommendations, I'm sorry.

MR STRICKLAND: Sorry.

THE COMMISSIONER: All right, Mr Strickland, proceed.

10 MR STRICKLAND: I'm sorry. Let me ask you this though, Mr McMicking, on your evidence Mr Huskic has received these things from Kings, 2006 a significantly discounted security door or system for his cousin. 2008, a security door for himself valued at 1,400. September 2008, a further security grille for himself of 2,100. May 2009, a Vespa scooter, \$10,000, a motorcycle jacket for \$300. 2009/2010, a security installation at his parents' place valued at \$900. 2010, accommodation at Las Vegas conference valued, six nights valued at \$900. 2011, gifts from a store being phone, PlayStation and the like, valued at between 2 to \$3,000, State of Origin ticket. They are a lot of gifts for one man, aren't they?---(No Audible Reply)

20

Do you agree with that or do you disagree with that?---I agree with that, yeah.

And looking at those gifts together, don't they show a regular practice of Kings of giving substantial gifts to Mr Huskic in return for Mr Huskic continuing to award government contracts to Kings worth hundreds of thousands of dollars per year?---I do not know if it was Mr Huskic's capacity to or I don't know if it was Mr Huskic's capacity to award those contracts.

30

THE COMMISSIONER: Why did you give him these gifts, Mr McMicking? Let's not mess around now?---Yes.

Why did you do this?---I was authorised to.

I know you were authorised to, but it was your idea, wasn't it?---No, it was not my idea.

40 Whose idea was it?---Some, I was, well, it was Mr Diekman's idea to authorise me to provide these.

You just did what you were told. Is that what you're saying?---That is what I'm saying.

You never exercised any initiative of your own. Is that what you're saying? ---That is what I'm saying.

You were simply an instrument in the hands of Mr Diekman. Is that what you're saying?---Yes.

And you didn't give these presents to the Area Health Service, did you?
---No, I did not.

And the Area Health Service was the entity that was providing you with the work for which it was paying, wasn't it?---Yes.

10 Mr Huskic, you were doing, you were not doing work for Mr Huskic, you were doing work for the Area Health Service, weren't you?---That is correct.

And Mr Huskic was the representative of the Area Health Service in the process of you being awarded the work?---Yes.

You were bribing him, weren't you?---(No Audible Reply)

20 You might have been the instrument but the point of giving him all of this was to bribe him, wasn't it?---I never saw it as that, sir.

There is none so blind as he who will not see. What do you think of it today?---Today I certainly think it, it is a lesson learnt.

Yes, Mr Strickland.

30 MR STRICKLAND: You say you don't know whether Mr Huskic had the capacity to award contracts to Kings. Your earlier evidence yesterday was that Mr Huskic had the power to award contracts up to a certain amount and did so?---I don't know, sorry - - -

Let's go back?---Yes.

You said that many of the jobs that you were quoted or you were asked to provide quotes for Mr Huskic were between one to \$10,000, do you remember that evidence?---Yes, I do.

Was the evidence correct?---Yes, it was.

40 And you did provide work in accordance with those quotes between one to \$10,000?---Yes.

Mr, Mr Huskic asked you to?---Yes, we would of.

You would have and you did, is that right?---Yes, yes.

And Mr - and you knew that it was Mr Huskic on behalf of the AHS who was asking for those quotes and who was then giving Kings work in

accordance with those quotes, correct?---Once again I don't, the answer is yes to that but I do not know whether - again, it was my understanding and I have been told that, that the quotes had been - once, once supplied to any member of the Area Health Service that that, that quote is submitted to the department and it was the department's to determine whether the quote was to be proceeding or not.

10 Mr Huskic either rang you up or sent you a document asking you to send a quote, is that right?---I would meet - or, or more often than not, meet him at the, at the hospital to sight the job before submitting a price.

Yes.

THE COMMISSIONER: But at his invitation?---Ah, yes.

MR STRICKLAND: So you knew that the invitation to put in a quote came from Mr Huskic, correct?---Yes.

20 And you knew that - you must have known and did know that he was influential in providing work to Kings once you had provided that quote because he asked for it?---He asked for it.

Do you agree with that question or would you like me to - or would you like me to ask it again?---If you could ask it again, please.

You knew that when you were given work in accordance with that quote that Mr Huskic asked for that he was influential in determining whether Kings actually did the work that they quoted for?---Yes, he probably was.

30 And you knew that, didn't you?---Yes.

Now, you also said yesterday that there were larger quotes that Mr Huskic asked for. Do you remember that evidence?---Yes.

And you gave an example of one being a Gosford, a quote for Gosford car park which was I think something in the order of \$200,000, do you remember that evidence?---I do.

40 You were then asked that he, that he asked you to break that big quote down into smaller quotes, do you remember that?---No, I, I don't remember that evidence.

Well, did - well, did that happen, in relation to that particular quote for security at Gosford car park did he ask you to break down that quote into smaller quotes?---I, I recall providing different options on the quotes rather than one lump sum separating it, I don't know when separating it, if it was still on the one quote or if they were separate quotes.

Okay. But suffice to say that you quoted for, in relation to the Gosford car park job, there were a number of different components, weren't there?--- That's correct.

There were boom gates. Is that right?---Correct.

And access control?---Yes.

10 And what else?---Pay and, pay and display meters.

Yes?---And coin operators on those boom gates.

And did you obtain or did you provide separate quotes for each of those components to Mr Huskic?---I think when broken down it was for separate sections of the car parks.

20 Did he ever tell you that he wanted Kings to provide separate quotes for individual components so that he would be able to authorise those quotes without getting a particular level of approval?---I don't recall that, no.

THE COMMISSIONER: So why did you do it?---Separate it out?

Yeah?---It's often the case that that's, that's been requested off, from me from the Area Health Service and showing for example car park A, the works might need to be done there is a certain amount of dollars and then they can proceed with some sections of that price, of the, of the job rather than all of it at once if, if, if it suits.

30 What was the rationale for that as explained to you by the Area Health Service?---Just to know that ah, how much each section of the job was.

But they would have found that from the original quote because each section was priced, wasn't it?---I don't recall on that.

Well, it must have been priced?---Sorry, each, sometimes the price would be submitted as one lump sum.

40 Yes, but surely the independent costs of each item or group of items would be shown?---No, generally not, Your Honour.

So who was it who would explain to the Area Health Service what your quote meant in technical terms, Mr Huskic?---Who would explain- - -

Yes?---He, he would ah, request, he would ah, detail the scope of works and ah, I would put that in the description on my quotation.

So the only person in the Area Health Service who had the knowhow to put this together and to understand your quotes was Mr Huskic?---No.

Who else?---Mr Kuiper.

So Mr Kuiper and Mr Huskic were the only persons who knew how to, knew how the tender or quotation was made up and the significance of the different items, what they did, how they worked and what they were being charged for and what cost was being asked for each?---And, and Mr Creary.

And Mr Creary?---Yes.

10

Those three?---They were the three that I dealt with, yes.

So the Area Health Service was entirely reliant on their integrity?---Yes, I think that, that was their role, yes.

And so you gave gifts to Mr Huskic?---Ah, yes.

You gave gifts to Mr Creary?---I did not give any gifts to Mr Creary.

20

Kings did?---I do not know that.

And Mr Kuiper's gifts were given too?---Ah, yes.

Do you think this is a coincidence?---I could only say no.

It was a deliberate campaign to subvert these persons, was it not?---I do not know, sir.

Yes, Mr Strickland.

30

MR STRICKLAND: Can I just show you two quotes, please in relation to the Gosford Hospital. Or before I do do you recall Kings quoting for the Gosford Hospital?---Which job?

I'll show you these two, I'm sorry I'll withdraw that. I beg your pardon. I want to show you two quotes for the Gosford Hospital car park being quote 48694 and quote 48821, respectively pages 43 and 71. Now is this, you see there are two quotes there?---Yes.

40

And is this an example of Kings quoting for a separate component of a larger contract for the Gosford Hospital car park?---Yes, I believe it is, sir.

I tender both quotes together.

THE COMMISSIONER: Yes. Quotation number 48821 and quotation number 48694, both relating to the Gosford car park will constitute M7 being part of Exhibit 4.

#EXHIBIT M7 BEING PART OF EXHIBIT 4 - QUOTES 48694 & 48821

MR STRICKLAND: Now there is no reason – this as you said before was a \$200,000 job, there was no reason why Kings could not have on a single quote identified all the separate components of the job. Is that correct?
---There is no reason, no.

10

Right. And that, that is the normal practice isn't it, that when you are quoting a job to a client you give them the quote for the whole job and then you break down that job into components or sub-components. That's the normal practice isn't it?---It's, it's often the practice. There are other occasions where it may be a multi segmented quote and it would just go in as one with one large description.

20

Okay. Now if I can just take you to these two pages 43 and 71. 71 is the first quote dated 3 May, 2010, that's the 48694 quote. And if you look at the items in the table that you quoted and the quantity of those items - - -?
---Yes.

And the total quote is \$21,780?---Yes.

And then if you look at the next quote 10 days later, 13 May, 2010 it's quote 48821, and that appears to be for the same items and the same quantity of items. Is that correct?---It appears to be, yes.

30

But the quote this time is only \$12,320. Is that correct?---That is correct.

And can you explain why there are two quotes for the same items at significantly different prices?---No, I can't.

Well you're referred to as the salesman on both of those quotes aren't you?
---I am.

And didn't you prepare those two quotes?---Yes.

40

So the only person who can provide an explanation for the two different prices on the quotes is you isn't it?---Yes, if I could recall the explanation, yes.

Were you asked to provide a different quote by Mr Huskic or anyone else after you provided the first quote 48694?---I can't recall that.

Was it usual for you to send two quotes for the same items with significantly different prices?---No, not usual.

Are you sure it is not the case that Mr Huskic didn't ask you to provide quotations for jobs, quotations for separate components of the Gosford Hospital car park job so that he would be able to authorise himself those jobs without going to his superiors or to a different level of the bureaucracy at AHS?---Sorry, did you ask if I am sure if that's the - - -

Do you want me to ask the question again?---Yes, please, yes, please.

10 Is this the case: it was Mr Huskic who asked you to give the separate quotations for different components of the job, is that correct?---It would have been, yes.

Did he give a reason why he wanted it done that way?---Not that I can recall.

20 THE COMMISSIONER: You see, these two quotes are bizarre, aren't they, Mr McMicking? The first quote appears to be the one at page 71, 48694, that's certainly the earlier number and - but they're both dated the same date, 3 May, 2010?---One's the 13th I see isn't it, sir?

Oh, I beg your pardon, that's correct. It's 10 days later?---Yes.

So there's been a reduction of almost \$9,000 from 21,000 so I mean it's almost 50 per cent reduction in price. Why?---I, I do not know. I don't, I don't know where the rest of these quotes for this project might be as well, there are other quotes for this same project.

Yes. Mr Strickland.

30 MR STRICKLAND: So if I can show you another quote. I've tendered the last two quotes, is that correct?

THE COMMISSIONER: Yes.

MR STRICKLAND: I'll show you another quote, AHS 33, quote number 48810, also dated 3 May, 2010. Now, do you recognise that as a quote that you prepared for Robert Huskic?---I do.

I tender that.

40

THE COMMISSIONER: Yes, the quote number 48810 is marked M8 and is part of Exhibit 4.

#EXHIBIT M8 – QUOTE NUMBER 48810

MR STRICKLAND: Now, was it -when you provided this quote to Mr Huskic did he ask you to break this quote down into separate components, that is by way of separate quotes?---In looking at this now I think that the other quote that I just looked at actually forms part of this same quote.

Yes?---So this, this is the front, this would be the front page and then the other quote dated on the same date would fall in behind it.

10 So, but can I ask you, in relation to this quote, that's 48810, were you asked to break this, were you asked to resubmit this quote by way of separate quotes?---Not that I can recall clearly, no.

So, so was this quote, 48810, was this the final quote that you quoted on this particular, on the Gosford car park job?---I don't believe so.

So did you resubmit the quote?---I would suggest so, yes.

20 THE COMMISSIONER: Sorry, when you say that it formed part of the two, the two quotes formed part of the same job, is that what you're saying? ---It would form part of the same quote, so the- - -

But which are the two that should be read together?---And sorry, I don't have the, the two pieces of paper that were shown me initially.

Can Mr McMicking be given M7, please. Now you've got three quotes? ---No, sorry, I am mistaken.

30 Yes?---What I was suggesting, Your Honour, was that the, the, the description of works within 48694 was, would, would fall behind, come behind 48810 as what I'm seeing as 481, 48810 would be the front page of our quotes.

Well, that can't be right, can it?---It's not in this case after I've seen that again, no.

No. And in fact if one looks at it, I mean I presume these quotes are issued sequentially?---Ah, that's correct.

40 So the first quote is, just by reference to the numbers, is 48694?---Yes.

Then 48810 then 48821?---Yes.

All for the same work?---Yes.

And there are indeed them two quotes on the same day for the same work, namely 48810 and 48694, one for 17,870, sorry, \$178,750 and the other for,

and one, and the second for \$21,780. Well, I am just very confused about this?---Yeah.

I don't understand it?---Could I offer, offer an explanation, Your Honour?

Yes?---Yeah. Our system that these quotes are generated from sometimes, well, not sometimes, if we were to what we, re-use a quote, it does not change the date of the quote automatically.

10 But you didn't use the same quote, it's an entirely different one, the wording of the items is, differs fundamentally in each case. They look like two different quotes at first glance, only when you look at it carefully do you see that it's for the same work. Anyway, I'll leave that.

MR STRICKLAND: Do you know in relation to the Gosford car park whether there were other companies also tendering for that, also bidding for that job?---Not that I'm aware of. Sorry, I, I, I do not know.

20 I'll come back to that in a moment. I want to ask you about something else. I want to ask you about your knowledge of Mark Eschbank?---Yes.

Now you – Mark Eschbank had a position, he was an employee of the University of Western Sydney. Is that correct?---That's correct.

And what was his position there?---I don't know his actual position, but he was at – I don't know, his position changed a few times, but he was at Bankstown campus within the security department.

30 Okay. Well you know that Kings did for and was awarded a very big contract at University of Western Sydney in relation to installing security across all of the campuses in University of Western Sydney?---I do know that.

And you had some involvement in that didn't you? Did you have some involvement in the tender process?---Not in the tender process.

But you had some involvement after the contract was awarded?---No.

40 So what involvement - - -?---Not that I recall, sorry.

Did you have any involvement?---No, I don't, not that I recall.

At the time that Kings was awarded that contract Mark Eschbank worked in the security department in University of Western Sydney, Bankstown office. Is that right?---I believe so.

Well he was a long time friend of yours wasn't he?---Correct.

So do you have any idea what his job was?---Only as I said in the security department at Bankstown campus.

What did he do?---I couldn't tell you in detail.

Forget the detail. Did he – was he responsible for awarding contracts or tenders?---Not that I'm aware of.

10 So was he a security guard?---I think he was more than a security – I don't think he was a security guard, no.

Well what did he do?---I think he was a, possibly a security, security may say /facilities manager.

Okay?---I may be mistaken in that.

Now you spoke to him though didn't you during the time of the – you spoke to Mr Eschbank during the time that Kings were tendering for the job at
20 University of Western Sydney?---Yes, I believe I did.

And what did you speak to him about?---I cannot recall.

Well you spoke to him about the fact that – you spoke to him about the, the tender didn't you, the tender process or the tender bid or who was bidding?
---I believe I did, yes.

Why do you say you believe you did?---Because you have previously shown me an email to that effect.
30

Okay. And did you, did you know at the time, that is when the contract was being – the tender process was occurring that Mark Eschbank was in contact with either yourself or anyone at Kings in relation to that tender?---Again the only recollection I have of that – I don't know about anybody else, no. But from myself, just recalling that the email that you've previously shown me.

All right.

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

MR STRICKLAND: Oh yes, it's a convenient time, thank you.

LUNCHEON ADJOURNMENT

[12.59pm]