

TILGAPUB02204
30/08/2012

TILGA
pp 02204-02270

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

Reference: Operation E09/350

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 30 AUGUST, 2012

AT 10.12AM

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

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

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Commissioner, I submit that the terms of the scope of the scope of the inquiry be amended as follows. The current scope in relation to one matter provides that Daniel Paul received corrupt benefits from the offices of Q Technology Group in exchange for exercising his public official functions in favour of Q Technology Group Limited by improperly influencing Kings to purchase goods from Q Technology for use in the Art Gallery et cetera. My submission is that that should be amended
10 in the following terms, that Daniel Paul received corrupt benefits from the offices of Q Technology Group Pty Limited in exchange for exercising his public official functions in favour of Q Technology Group Pty Limited by assisting Q Technology Group Pty Limited to be the main supplier of goods to Kings Security Group Pty Limited for use in the security upgrade works undertaken for the Art Gallery of New South Wales in 2009.

THE COMMISSIONER: Yes.

MR STRICKLAND: I understand that the parties have been notified of that
20 proposed – of that submission in advance.

THE COMMISSIONER: Yes. Mr Lloyd, do I see you attempting to move?

MR LLOYD: Well I wasn't, jus stretching, Commissioner. At some stage, Commissioner, I'm not going to bother you with this now, we'll be seeking some particulars on not only what Counsel Assisting has just said as the widening scope, issues such as public official functions, but we can reduce those to writing. I don't want to disturb the flow of the process.

30 THE COMMISSIONER: And I'm grateful for that Mr Lloyd. I just want to ask, you will – there will of course be written submissions from Counsel Assisting.

MR LLOYD: Indeed.

THE COMMISSIONER: And you'll see exactly what the position is there. Do you, do you have any – is there any possibility of you wanting to undertake any, recall any witnesses or anything?

40 MR LLOYD: Not at all. I think all we are concerned about is greater specificity in the allegation so that we can address them in our submissions based on evidence to date.

THE COMMISSIONER: Well you would have to be given that in the written submissions by Counsel Assisting. Otherwise you wouldn't be able to reply and you would take whatever steps you would think appropriate.

MR LLOYD: Indeed.

THE COMMISSIONER: So that's one way of dealing with it but I understand if you do ask for particulars we will do our best to give them to you.

MR LLOYD: Indeed, no doubt but I just don't want to interrupt the flow of witnesses, Commissioner, I know your time's valuable.

10 THE COMMISSIONER: Yes, yes, thank you, Mr Lloyd. The scope will be amended as request by Mr Strickland. Yes, Mr Strickland.

MR STRICKLAND: Commissioner, the first witness will be Mr Smith, I'd ask to be excused for that witness.

THE COMMISSIONER: Yes.

20 MR STRICKLAND: One of the witnesses today will be Ms Tregagle. I have been handed this morning some additional notes from here which I propose to look at now. As soon as I am satisfied that they are relevant and I believe they are, they will be handed to interested parties, but it's a few pages only and it relates to scoring sheets on 27 February and perhaps anything else but if there's anything else relevant to the inquiry I will make sure that the parties get them before she enters the witness box.

THE COMMISSIONER: Yes, thank you. Yes, Ms Lonergan.

MS LONERGAN: Commissioner, I call Robert Smith.

30 MR BEALE: Commissioner, my name is Beale, I seek leave to appear for Mr La Greca to briefly cross-examine Mr Smith.

THE COMMISSIONER: Yes.

MR BEALE: Thank you.

MS LONERGAN: And, Commissioner, Mr Smith is legally represented by Ms Graycar.

40 THE COMMISSIONER: Oh, yes. You did represent somebody else?

MS GRAYCAR: I sought leave - Businesslink and Mr Smith.

THE COMMISSIONER: Oh, I see.

MS GRAYCAR: Yes.

THE COMMISSIONER: Take a seat please. And do you want me to make a section 38 order, Ms Graycar?

MS GRAYCAR: My client doesn't wish you to.

THE COMMISSIONER: Pardon?

MS GRAYCAR: My client doesn't wish you to do that.

THE COMMISSIONER: Very well. Mr Smith, do you wish to give your
evidence under oath or do you wish to affirm the truth of your evidence?
10 Do you want to swear on the Bible or not?

MR SMITH: Well, I don't - - -

THE COMMISSIONER: It's a matter for you, it's a matter for your
personal conscience. Do you wish to swear on the Bible or not?

MR SMITH: Yeah, I'm, I'm happy to do that.

THE COMMISSIONER: All right.
20

THE COMMISSIONER: Ms Lonergan.

MS LONERGAN: Thank you.

10 Could Mr Smith be shown a copy of his statement which is Exhibit 220
please. Mr Smith, could you state your full name?---Robert Anthony Smith.

And, Mr Smith, you're an employee of Businesslink New South Wales?
---That's correct.

And in 2007 you were working as the property project manager?---Yes.

You prepared a statement for the Commission and that's been provided to
all the parties attending as an exhibit, Mr Smith and I just want to ask you
some questions to expand on a couple of things in that statement?---Yes.

20 First of all, you're, you're involved in projects where Mr La Greca was used
as the security consultant?---That's correct.

Did you engage Mr La Greca yourself?---No, he was engaged by Housing.

And in terms of the chain of command if I can use that expression, did
Mr La Greca report to you regarding the manner in which he carried out his
tender?---I received his quote and then I forward that on to Housing for
them to approve and to engage him on that basis.

30 Right. Could you have a look at the annexures to your statement, they're
paginated in the top right corner, page 8?---Yes.

And you see that's a series of emails- - -?---That's correct.

- - - on 18 and 21 December, 2006 and the bottom email is from Mr La
Greca to you and it encloses some standard proposals, is that right?---It was
a proposal for him to do some work, yes.

40 All right. And you then forward that proposal on to a Mr Moody?---That's
correct.

Right. And is Mr Moody the person at Department of Housing who was
looking after the project?---Yes, he was our contact, he was the client.

Right. And was he the person who looked after the project in relation to
both sets of contracts, the Campbelltown series of works and the prior series
of works?---Yes.

And if you could have a look at page, I'm sorry, paragraph 11 of your statement, in that paragraph, excuse me, Mr Smith, you say in the second sentence that the security component was not part of the tender specifications issued to the builders because this was being managed separately?---That's correct.

Now who was managing that part?---Mr La Greca though IPP.

10 In paragraph 14 on the following page in the first sentence you make the comment that you would be expected that at least three quotes would have been sought from security contractors. What is the source of your expectation that that's the way Mr La Greca would have gone about his task?---Based on my understanding of the Government procurement guidelines that three quotes would have been required.

Do you recall now whether there was any time pressures in relation to that aspect of the preparation - - -?---No.

20 - - - that is the obtaining of quotes?---No.

And when you say no - - -

THE COMMISSIONER: Sorry. You were saying you - - -?---Sorry?

MS LONERGAN: Sorry. When you say no - - -?---There was no time constraints on the project, no.

30 Thank you. And you make the comment in the final sentence of that paragraph, "The time taken to obtain and review the additional quotes would have been negligible. What, what are you referring to there and why do you say that?---Well whether it's two quotes or three, four, five, you know you're assessing them all at the one time, so you know the length of time too to take that would have been minimal. It wouldn't have added weeks.

Did you have any role in deciding whether the security aspect of the contract would be dealt with by way of open tender or open advertised invitations for quotations or a closed process?---No.

40 Who made the decision about that process?---It was through IPP, Mr La Greca.

Mr La Greca gave some evidence to the Commission on Monday, Mr Smith, and there were various - - -?---Yeah.

- - - matters that he raised in his evidence and I need to put those to you specifically and give you an opportunity to adopt or - - -?---Yeah.

- - - or recollect the matters that Mr La Greca has raised in his evidence.
First of all. Turning the transcript page 2163.

THE COMMISSIONER: You may just proceed.

MS LONERGAN: I'll proceed. Thank you. At line 12, Mr Smith, Mr La Greca said that or asserted that - - -

10 THE COMMISSIONER: Can we, can we just have that up on the screen please.

MS LONERGAN: Will I proceed, Commissioner or wait?

THE COMMISSIONER: Pardon? Just try and get it up on the screen first. Is that difficult? Pardon. Right. Just proceed then.

MS LONERGAN: Thank you.

20 Mr La Greca asserts that during a meeting where there was a discussion about whether a third tenderer should be invited, so ACG and Kings by this stage had been muted - I withdraw that. During a discussion Mr La Greca says that you raised that Kings should be used on the tender and that you said, "Oh, that would be good for uniformity if you like, now that we're going to standardise system they would know the system quite well"?---No.

Do you recall saying that?---No.

THE COMMISSIONER: What line is that, please?

30 MS LONERGAN: That's at line 12. Sorry, 14, Commissioner, on page 2163.

THE COMMISSIONER: Yes, thank you.

40 MS LONERGAN: Mr La Greca was asked some questions as to why he didn't propose a third company to tender on the work in addition to ACG and Kings and Mr La Greca said that in discussions he had with both you and Mr Moody when Mr La Greca brought this up by saying at the moment I have two people on the list, the comments back to him were, "Oh, that's okay, you know we're moving forward with the projects, we really don't need to go for anymore then too." Did you say that - - -?---No.

- - - to Mr La Greca? In your presence did Mr Moody say that to Mr La Greca?---No.

Further down on page 2163 at line 42 Mr La Greca says again that was stated to him in, in your presence was that there was a general discussion

and they said, that's you and Mr Moody or one or other of you, look there's really no need to go for any more in two quotes. Is that your recollection?
---No.

Page 2169 at about line 35 it's suggested, it was suggested by Mr La Greca that one of the reasons that two tenderers was sufficient was because there were time pressures. Did you ever say to Mr La Greca that there were time pressures in completing that part of the contract?---No.

10 THE COMMISSIONER: And were there time pressures?---No.

MS LONERGAN: And did you say to Mr La Greca, this is at line 44 to 46, "look we could almost go just for Kings to keep uniformity and not go out to tender at all"?---No.

And is there a reason why you would not have said we'll just stick to one firm, just go with Kings?---Well a) it's against government guidelines.

20 On page 2174, Mr Le Greca gave some evidence about a meeting regarding the Campbelltown group of jobs and you and Mr Moody were present. And La Greca has said there was also another person from your office present. Do you recall that meeting?---I recall the meeting, I don't recall any other person from Businesslink.

All right. And La Greca said that he was pushing for a third contractor to be engaged for the security part of the works and that he was more adamant this time because it was a bigger group of projects.

30 THE COMMISSIONER: What line is that?

MS LONERGAN: I'm sorry line 30 to 33, Commissioner. Do you recall - -
-

THE COMMISSIONER: That's 2175?

MS LONERGAN: 2174, Commissioner.

THE COMMISSIONER: Sorry. Yes, thank you.

40 MS LONERGAN: Do you recall a circumstance in that meeting where Mr La Greca was adamant that there needed to be a third contractor?---No.

Did Mr La Greca at any stage say to you that only having two contractors makes it very difficult because he's really got nothing to gauge the price on?
---No.

And if Mr La Greca had recommended to you that a third contractor needed to be consulted for a price gauge what would your response have been?

---Yes.

Yes?---I would have, if he had said that to me I would have suggested yes, we needed to.

And finally could you turn to page 36 of the annexures to your statement. And that's a, is that, is that your note?---Sorry?

Is that your handwritten note?---Yes, yes.

10

And is that about the Campbelltown group of premises?---Yeah. That was the meeting that we had for the Bankstown, Liverpool and Campbelltown projects, yes.

All right. Was there only one meeting about the Campbelltown group that Mr La Greca and you and Mr Moody attended together?---Yes.

And there there's a note under the heading Re Security regarding the Liverpool campus. Do you see that?---Yes.

20

If Mr La Greca had said to you at that meeting that he wished to obtain a third contractor to quote on the job would you have recorded that in the record?---Yes.

Those are my questions, Commissioner.

THE COMMISSIONER: Yes, thank you. You're seeking to, you're seeking to question the witness are you?

30 MR BEALE: Thank you, Commissioner.

THE COMMISSIONER: Just explain to the witness who you are, please?

MR BEALE: Yes, look Mr Smith, I act, my name is Beale and I act with the, in this place with the Commissioner's permission for Mr La Greca. Do you understand that?---Yes.

40 Now you were just asked some questions about your recollection of things. When were you first asked to recollect these events? That's to say when were you first approached by an investigator from the Independent Commission Against Corruption?---When?

When, yes?---It would have been at the beginning – probably January/February.

THE COMMISSIONER: This year?

MR BEALE: In 2012?---'12, sorry, yes, yeah. It was this year.

Yes. Some six years or so after the event?---That's correct.

And you had, other than the note that you produced you had no access to other notes that you had made at the time?---I've got old files. I've got the project files.

10 But they didn't discuss these particular matters that you were questioned about the investigator?---Sorry, I don't know where you're going.

Don't worry about where I'm going - - -?---Yeah.

- - - just answer the question if you don't mind?---Yep.

The investigator asked you what materials you had and to produce materials for him did he not?---That's correct.

20 And anything that was relevant to the matters that appear in your statement you produced?---That's correct.

In accordance with his request. Yes?---That's correct.

MR BEALE: Because you were anxious to assist?---I was just doing what I was asked to do.

30 Yes. And when you were approached by the investigator did the investigator say to you that your dealings involving IPP and Mr La Greca had become the subject of inquiry by the Independent Commission Against Corruption?---That's correct.

And do you still work for the public service?---Yes.

And no doubt you were alarmed when you were told that?---I had some concerns.

40 Because you would always be concerned in that context that perhaps there might be a suggestion that you had done something wrong yourself or had not done something well enough to prevent something wrong taking place? ---Sorry, is that a question?

Yes.

THE COMMISSIONER: Did you have concerns of the kind that Mr Beale describes?---I had some concerns that there were some issues that potentially might have put Businesslink at risk.

MR BEALE: And even yourself?---Yes.

By the way, you're a former police officer, aren't you, New South Wales Police Service?---No, I'm not.

You're not?---No.

All right. Now, you have answered some questions here this morning that were put to you by Ms Lonergan. Did you answer all of those questions truthfully?---Yes.

10 Now, you say that you would have expected three quotes and you expected that because of your experience in Businesslink?---Yes.

THE COMMISSIONER: And through government guidelines.

MR BEALE: Yes, I'll come to that.

THE COMMISSIONER: But he said both.

MR BEALE: Yes. Firstly, if I can deal with your experience in
20 Businesslink?---Yes.

How long had you been in Businesslink at the time?---I joined in 2005.

And you understood that your function or at least that of Businesslink was to be the business intermediary between the Department of Housing in this instance and the security contractors?---And the other consultants that were engaged, yes.

Yes. And that you were to provide as it were the business acumen as a
30 safeguard to assist the client?---Yes.

MS LONERGAN: I object.

MR BEALE: And you understood that part of your function was to review what was taking place to protect the client whose expertise would undoubtedly lie in a different area, not building?---In the building sense, yes.

And you knew that Moody was not a builder?---No, but he was experienced
40 with Housing with looking after building projects.

But you understood that you were more experienced and that was your job? ---I wouldn't say that I was more experienced than Mr Moody, no.

But you understood in that context it was your job to be the business intermediary and to ensure that things were done properly?---That's correct.

Now, you've also spoken as the Commissioner has reminded you of some government guideline that suggests there should be more than two quotes?
---Yes.

Did you produce a copy of that guideline and give it to Mr La Greca and say look here, Mr La Greca, there are only two quotes, I'm concerned about this and it's in breach of a government guideline, please read this and act accordingly?---No, I didn't.

10 No, you didn't. And at no stage in fact did you even inform him of the existence of any such government guideline?---No, I didn't.

What is it called and where can it be obtained?---Well, it's a government procurement guideline and it's on the intranet.

Oh, I see. And it's available to you, you had it in your office then?---Oh, it was available to anyone that can access the government system.

But you had it then?---It was on the Intranet, yes.

20

And you didn't have a copy of it?---No.

But I suppose you say that you knew of its existence then? Now, just pause there?---Yeah.

I'm asking you to be very careful about your answer to this question. Do you tell this Commission that as at 2006 and early 2007 you were aware of that guideline, you knew its content, you knew its import for a tendering process?---Yes.

30

THE COMMISSIONER: You should ask one question at a time.

MR BEALE: I'm sorry. And you did not bring that to the attention of Mr La Greca or IPP did you?---No.

And you could easily have done so?---I could of, yes.

And I suggest to you the reason you didn't do so is because you were aware that Mr La Greca would be going flat out to deal with the timetable that was specified originally by Mr Moody?---No.

40

You were aware - what, you just had no reason for doing it, for not doing it I should say?---No, there was no, no reason not to give it on the basis that there was a time constraint, there was no time constraint.

I'm asking about your functions now and your shortcomings if you will. You didn't give Mr La Greca or IPP information regarding what you now

choose to say is an important government guideline did you?---Yes, that was an oversight, yes.

Yes. It was a pretty big oversight in light of what you now say, isn't it?---I assume it can be, yes.

'Cause your job was to do just that.

10 THE COMMISSIONER: Well he said it three times now, Mr Beale. How many times do you want him to say it?

MR BEALE: The fact of the matter is Mr Moody was driving this concern, wasn't he, he was the boss as to were?---Well he was a client that we were dealing with, yes.

He sent out some time restraints and there recorded in your exhibit, part of Exhibit 3 to this witness's exhibit which I've heard is Exhibit number 220. Page 36?---Yeah.

20 It's been up on the screen this morning. That's just one of the time tables that were set by Mr Moody. That meeting occurred at the end of May and it required that the call for tenders would occur on the, I think it says the 5 June, 4, 7 June, doesn't it?---That's, yes.

And it seems that the tenders must close on 27, 26 June?---That's correct.

And that Mr La Greca must have his recommendation on 3 July. Correct? ---Not necessarily that 'Cause there was the, the - - -

30 Just answer my question. That's what your notice says?---It says it does but it doesn't - - -

MS LONERGAN: I object, I object, I object. Stop Mr Smith.

THE WITNESS: - - - necessarily mean that it's relating.

40 MS LONERGAN: Stop Mr Smith. I object to Mr Beale not allowing the witness to answer the question. He needs to be given time to address the matters raised and if he could just have that courtesy extended things will go much more smoothly.

THE COMMISSIONER: Yes. Mr Beale.

MR BEALE: Yes, Commissioner.

Look I'm asking you what the note says and that note which is your note - - -?---Yes.

- - - no-one else's, Mr La Greca didn't make you write that down in your own handwriting did he?---No.

You wrote that without reference to La Greca as you heard Moody say it, didn't you?---That's correct.

And you wrote down recommendations 3 July '07?---That's correct.

10 And you would accept that anyone reading that note or hearing what Mr Moody had said - - -

THE COMMISSIONER: Those are two different questions.

MR BEALE: I'm sorry, I withdraw that.

Anyone reading that note would understand that the recommendation had to be in by 3 July?---That was the time frame, yes.

20 And that is what you would apprehend that Mr La Greca would have understood by what you heard Mr Moody say to him and you?

MS LONERGAN: I object to that question. It's not helpful to have this witness guess what Mr La Greca - - -

MR BEALE: I withdraw the question, I withdraw that question.

30 You, you understood from what Moody said that he wanted a recommendation from La Greca by 3 July?---That's what the note say there, yes.

Yes. But it was your understanding not what the note says it was - - -?---It's - - -

- - - all for your understanding?---It's my understanding that the tender process for the whole project was to be done by that stage.

Yes. And you also understood from what Moody told you and La Greca that the job was the commence at Liverpool the first of the sites - - -?---Yes.

40 - - - involved in the, the tender on 30 July?---That's correct.

Yeah. You say there were no time restraints, they could have gone back and what, done another tender, hmm?---Not another tender but they could have got extra quotes.

Well how does this handle the note specifying that between the 29 May when the meeting took place and 30 July there would be a preparation of tender documents by La Greca, there would be a call for tenders, close of

tenders, recommendations and commencement of works sit with the proposition you now proffer that there was no time restraint?

MS LONERGAN: I object to the way that question's been put to the witness. Mr Smith's evidence was simply that his recollection is there was no time pressures that would prevent Mr La Greca getting a third quote. The way the question's been put now put some sort of emphasis on this handwritten note that's not available in relation to the answers already given by Mr Smith which was simply adopting the proposition, I'm sorry, simply
10 asserting that there was no time pressures that would prevent Mr La Greca getting a third quote.

THE COMMISSIONER: I think that's correct, Mr Beale.

MR BEALE: Commissioner, the - - -

THE COMMISSIONER: Just ask the question.

MR BEALE: Look you say there were no time pressures, your note doesn't
20 back that up, your note says that a lot had to be done between the 29 May and 3 July, doesn't it?

MS LONERGAN: Well I object again, the Commission, I'm sorry, the note doesn't say a lot had to be done. It's simply a timetable. The document speaks for itself. The witness is being badgered to accept propositions - - -

THE COMMISSIONER: Mr Beale, it would be really helpful if you put one question at a time.

30 MR BEALE: Yes. Well here's a single question for you Mr Smith. The evidence you've given about there being no time pressures on Mr La Greca and IPP is simply completely inaccurate?---No.

And that's the evidence you choose to give now with the benefit of hindsight and a belief that there may have been something wrong and you set to avoid any responsibility for the process whatsoever?---No.

And similarly in your evidence – no I'll withdraw that.

40 THE COMMISSIONER: Mr Smith, your note sets out a timetable?---Yes.

Your evidence that you gave in answer to Ms Lonergan's questions was that you did not regard there being any time constraints in relation to what you expected Mr La Greca to have done in relation to the obtaining of quotes?
---No.

You agree that's what you said?---Yes.

In the light of the fact that there were, there was a timetable why do you say that there were no time constraints?---At that meeting also there was the consultant for the architect who was preparing the building tenders.

I beg your pardon, there was?---The building tenders.

There was a what?---A consultant.

10 Yes?---An architect, they were preparing the final documentation for the building works.

Yes?---And at that point in time the timeframe of the projects and that timeframe was also discussing the building works as well not just the security.

20 Yes, but that – I don't see how that answers my question. If there was a timetable why, why were there no time constraints on Mr La Greca in obtaining the quotes?---The timeframe was just an indicative timeframe to call, to get the work out.

And does that mean that he could have exceeded the time constraint?
---That's right. There was no, no definite set down that that had to be that date and it had to be out by that date.

That's what you mean by indicative date?---Yes.

Yes, Mr Beale.

30 MR BEALE: Yes. So did you send an email to Mr La Greca to tell him don't worry about the timetable that Mr Moody set it's only indicative, you can exceed it if you want to?---No.

And I suggest you didn't do that because in your mind it wasn't indicative only, it was what the client wanted and people including yourself were expected to comply with it?---No.

Unless there was a really good reason?---No.

40 And the proposition you now put is not in conformity with the note that you made?---No.

THE COMMISSIONER: Was anything said that would have led Mr La Greca to understand that these dates in your note at page 36 were indicative only?---Not that I'm aware of.

So how – if you understood that they were indicative – why did you understand that they were indicative?---Sorry?

Why did you understand that they were indicative only?---Based on the understanding of where things were with the main building contract. That was indicative of what Mr Moody wanted to try and do and get it out. Now you know, the fact that the commencement date at Liverpool was 30 July, that didn't occur. The recommendation hadn't been approved by that stage. So you know, they were only - - -

10 And when was it, when, when was approval obtained?---I think I done an amendment to my recommendation to Mr Moody and that was in September, '07.

And - - -?---So the timeframe was not, you know, that's it and that's what had to be done. It was, as I said it was an indicative timeframe based on the circumstances following the tender closure.

20 Well were there any circumstances apart from what anybody said, anything that anyone said which would have indicated that this was just, that these were indicative timeframes and not set in concrete?---No, no. Not that I can recall.

Yes, Mr Beale.

MR BEALE: In fact, contrary to what you told the Commission this morning about there - could the witness be shown Exhibit 220 please.

THE COMMISSIONER: He has it in front of him I think.

MR BEALE: Oh, you've got it there with you, have you?---Yeah.

30 Thank you. It was put to you a series of questions and answers from Mr La Greca suggesting that he was told he thought by you that if he thought it appropriate they could just go with Kings because Kings had done the other work. Do you recollect that, and you - - -?---Yes.

- - - said no, that you don't recall that being said?---That's correct.

And you don't mean to deny that it was said, you just don't recollect saying it?---I didn't say that.

40 THE COMMISSIONER: I beg your pardon?---I did not say that.

MR BEALE: Because so far as you are concerned that just couldn't happen, is that what you mean?---In what sense?

You say you just couldn't go with Kings?---Well, no, not as, not as a single quote, no.

No. But you thought it was in some way inappropriate to only have two quotes is what you're saying now with the benefit of hindsight after six years - - -

THE COMMISSIONER: No, no, no. Just ask the questions without any editorial comment, Mr Beale.

10 MR BEALE: You now say you think that it was, it was in some way inappropriate to only have two quotes. Is that what you're saying?---That's correct.

Are you sure of that?---Yes.

Inappropriate?---To have only two quotes, yes.

Yes. And did you think that at the time?---In hindsight, no.

And at the time you thought that merely fitting in - - -

20 THE COMMISSIONER: Sorry, I don't understand that answer. You were asked whether you thought that at the time and you said in hindsight no. You mean at the time you did not think that?---On the basis that it was, went to Housing for approval, at the end of the day the final approval was done by Mr Moody at Housing.

I don't understand what you mean by, I don't understand how you can say, what you mean by saying in answer to the question whether you thought that at the time in hindsight no. Did you or did you not at the time think that it was appropriate or inappropriate?---At the time I didn't, no.

30 You didn't want?---When the quotes came through or the recommendation it was sent on to, to the architect, I was copied in. I didn't act on the basis that it was only, there was only two quotes.

But you knew that there were only two quotes?---Only on the basis of the recommendation. I hadn't seen anything else, no.

40 Did you or did you not know that there were only two quotes at the time you received the information from La Greca?---That's correct.

So what's correct?---That there was only two quotes in his tender recommendation, yes.

And did you realise then that there were, that he had obtained only two quotes?---Only that he had received two quotes.

MR BEALE: Commissioner, may I continue?

THE COMMISSIONER: Yes.

MR BEALE: Mr Smith, what I'm asking you is, if you could answer with a yes or a no, is at the time you did not think there was anything inappropriate about having only two quotes, did you?---That's correct.

Because if you had you would obviously - - -

THE COMMISSIONER: He said yes, Mr Beale, let's move on.

10

MR BEALE: And the fact is you yourself if you go and look at paragraph 22, halfway down is a sentence beginning "Furthermore, if we were seriously concerned about timings we could have simply appointed Kings as the contractor on the basis that Housing New South Wales wanted a consistent and uniform security system. Kings were familiar with that system and Housing New South Wales standards and Kings Security had just completed the prior contract."

THE COMMISSIONER: Is there a question?

20

MR BEALE: You read that? That's the fact, isn't it?

THE COMMISSIONER: He's said it.

MR BEALE: That is precisely not what you said this morning.

MS LONERGAN: I object, Commissioner. The context hasn't been given to the witness. I can't see any benefit to the Commission in this approach.

30 THE COMMISSIONER: I really don't find this helpful Mr Beale.

MR BEALE: May the court please. Well some- - -

THE COMMISSIONER: Make your point.

40 MR BEALE: - - - some time ago when you made this statement on 8 May you thought that if Mr Moody had simply wanted to appoint Kings that would have been all right, if there were time constraints. That's the gist of what you're saying isn't it?---If there was time constraints Mr Moody had that option, yes.

Now today you've said in answer to a question put to you by the Commissioner that there weren't time constraints because the job didn't start on time, the job wasn't approved - - -

THE COMMISSIONER: He didn't say that. That's not an accurate representation of what he said.

MR BEALE: Well I'm sorry, I understood you to say that the job didn't commence until much later, it wasn't approved - - -.

THE COMMISSIONER: That's right. He said that.

MR BEALE: - - -until October?---That's correct.

10 And I understood you to be saying that as a result of that there could have been more tenders?---Not more, more tenders, opportunity to get more quotes at the same time. Just because there's time restraints it doesn't stop you from getting more than two quotes.

You understand however that at the time the quotes had to be obtained and they had to be evaluated and the costings checked by the people who were looking at the quotes. Yes?---That's correct, yes.

And you also have been asked a question today about open, open and closed tenders?---Yes.

20 You understand that one of the advantages of a closed tender when dealing with security matters is that you limit the number of people who receive the diagrams and plans, specifications as to where things like duress buttons will go, alarm panels and control panels. You understood that didn't you? ---Well I understand that, yes.

You understood it then?---Yes.

30 And that weighed heavily in favour of closed tenders rather than publication.

MS LONERGAN: I object, Commissioner. The evidence of this witness was that Mr La Greca made the decision. I don't know that this line of questioning is assisting the Commissioner.

THE COMMISSIONER: It's fair, the question is fair. Answer the question?---Sorry what was that again?

40 MR BEALE: You understood that that matter weighed heavily on the question of whether there would be closed tenders or publication.

THE COMMISSIONER: The security aspect?---No.

Why is that?---Well the security document was also in the main building contract, on the drawing, so all that information was provided to the main tenderers, the building contractors. So they had privilege of that. If it went to the electrician, they would have copies of that.

MR BEALE: Is that right?---Yes, it is.

Did you know that at the time?---On the documents?

Yes?---Yeah, it's drawn up.

Now the actual submission, I think is the name of the document, if you wouldn't mind turning, have you got your whole statement there with the annexures?---Yes.

10 All right. Page 18 of Exhibit 3 to Exhibit 220, Commissioner. If you look at page 18 that document is headed Businesslink Submission?---Yes.

You are the author of that document?---That's correct.

20 That document at page 19, Commissioner, point 7 refers to the security tender and you on 12 it looks like September, 2007 recommended among other things point 5 under the heading Recommendation, that the tender submission by Kings Security to the extent of \$221, 650 GST inclusive be approved based on their competitive price. Do you recollect that?---Yes.

You understood, may I suggest to you, Mr Smith, that when you prepared that submission that that submission would be looked at by the other people who were concerned in actually approving the project including the security. Yes?---That's correct.

And you understood that your recommendation would in all probability be accepted?---That's correct.

30 And you understood that there would be no further inquiry at that point in time before the work was done and the contracts approved by anyone?

THE COMMISSIONER: Inquiry about what?

MR BEALE: About the tenders. No further inquiry about the tenders that your recommendation would probably be accepted?---It was put to Mr Moody, yes.

40 You understood that the recommendation you made would probably be accepted. Yes or no?---Yes.

And in fact it was?---That's correct.

So when you say in your statement at paragraph 10 that, "I was not involved in the security documentation for the project from that point onwards." New sentence, "The tendering evaluation and awarding of the tender this was handled by Kevin Moody, Kurt Ridgway and Chris, meaning Chris La Greca?---That's correct.

That's not entirely correct because you were involved to the extent that you recommended it?---As part of that submission, yes.

And you wouldn't have recommended it if there was anything wrong with the fact that there were only two tenders?---That's correct.

10 And in fact your professional responsibilities and your expertise would have required you had you thought there was anything wrong with the process adopted to bring it to the attention of La Greca by telling him Businesslink New South Wales requires more tenders pursuant to Government guidelines, wouldn't you?---Yes.

And in fact the Government guidelines are not hard and fast rules otherwise you would have enforced them with respect to La Greca?---I should have, yes.

And but if you understood there were hard and fast rules you would have required him to do it surely?---That's correct.

20 But you understood they were not?---Is that two questions?

THE COMMISSIONER: Those are two questions again.

MR BEALE: I think you've answered the first one, any way, that'll do.

THE COMMISSIONER: Yes. He's answered that.

30 MR BEALE: And, and finally, Mr Smith, the question of whether Mr La Greca got two quotes for more quotes was a matter you could have discussed with him at any time had you been (not transcribable)?---That's correct.

And you didn't?---That's correct.

Nothing further, Commissioner.

THE COMMISSIONER: Yes. Does anyone else wish to question Mr Smith? Ms Graycar.

40 MS GRAYCAR: I have one question for Mr Smith.

How did you come to engage Mr La Greca as the security consultant?---He had a conversation with Mr Moody to develop a standard, standardised document for the security across his divisions.

Are there eligibility guidelines for who you can choose to be a security consultant?---Oh - - -

Is there a list of people that you can choose from?---There's a, there's a list of consultants in, you know that specialise in security, yes.

But is that a Government approved list?---Look I'm, I'm assuming there is, yes.

THE COMMISSIONER: You don't know?---I don't, no.

10 MS GRAYCAR: You don't?---My dealings with security.

THE COMMISSIONER: No. I just wanted to know whether you know - -
-?---Yeah, sorry.

- - - or you don't know?---No, no.

You don't know.

20 MS GRAYCAR: So you weren't aware that he was on a Government approved list of contractors to do - - -?---Not that I was aware of, no. I don't have any further questions.

THE COMMISSIONER: Ms Lonergan.

MS LONERGAN: Three questions, Commissioner.

Mr Smith, you or your firm didn't engage Mr La Greca directly did you?
---That's correct.

30 And by that's correct you mean you did not?---No, that's right.

And he was engaged by Department of Housing?---That's correct.

In - I withdraw that. Do you have any personal experience or expertise in the security tendering area?---No.

Did you rely entirely on Mr La Greca in terms of that process?---Yes.

40 When you recommended that the quote by Kings be accepted in the document my learned friend took you to, were you relying entirely on Mr la Greca's recommendation and processes?---Yes.

Those are my questions.

THE COMMISSIONER: Yes. Thank you for your evidence, Mr Smith. You are excused.

THE WITNESS EXCUSED

[11.00am]

MS LONERGAN: Commissioner, may I be excused?

THE COMMISSIONER: Yes.

MR BEALE: May I also be excused, Commissioner.

THE COMMISSIONER: Yes, certainly.

10

MR BEALE: Thank you. I thank the Commission for its indulgence this morning by bringing this witness first.

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: I call Eric Kuipers, K-u-i-p-e-r-s, sorry, K-u-i-p-e-r.

20

MR STEWART: Yes, good morning, Commissioner. For the record, Stewart, solicitor for Mr Kuiper. Mr Kuiper will take the oath, Commissioner. I've explained the declaration to him and he'll be seeking an order under section 38.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Kuiper and all documents produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document produced.

30

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR KUIPER AND ALL DOCUMENTS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.

40

THE COMMISSIONER: Mr Kuiper, that protects you against the evidence you give today from being, from being used against you in any criminal or civil or disciplinary proceedings but it does not protect you in respect of any evidence that may be untruthful. If you are prosecuted and convicted on that you may render yourself liable to a term of imprisonment of no more than five years. You understand all of that?

MR KUIPER: I understand that.

THE COMMISSIONER: Yes, very good. Would you administer the oath please.

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Could the witness please be shown Exhibit 163, it's a statement from Eric Kuiper dated 23 May, 2012. Mr Kuiper, what was your role as the security project officer for the Northern Sydney and Central Coast?---To organise quotes for, for departments that needed security upgrade.
10

And in the course of that role you liaised with Kings Security, is that correct?---That's correct.

Just keep your voice up so it can be recorded?---Yeah.

And in particular Mr David McMicking?---That's correct.

And Mr Charles Diekman?---On very few occasions, yes.
20

Your main contact with Kings was with Mr McMicking?---That's correct.

And you also liaised with the other preferred tenderer is that correct?
---That's correct, yes.

And what was the name of that company, Sielox was it?---Sielox, yes.

Can you just describe the detail of your dealings with Mr McMicking in terms of did you, you'd call him up for a quote and he'd provide you with a quote, et cetera, and then can you just describe that process please?---Yeah.
30 When we needed a quote I'd either ring Dave or email him with details of what was required and we'd arranged a meeting to come back on the site to the particular place for him to have a look at what was required and then he'd get back to me with that quote.

Okay, I'll get you to raise your voice?---Sorry, yeah.

It's also people at the back have to hear you as well. And do you have a delegation?---Myself?
40

Yes?---A cost delegation you mean?

That's right?---No.

So what, was there no limit as to the value of the contracts that you could ask for quotes for?---There was a limit I suppose to that, yes, but it would go up to, I'm not really quite aware of that final limit of what that, the limitation was but I'm aware there was a limit, yes.

Did anyone advise you what the limit was?---Over the years people have advised me on various costs of limitations, yes.

But say, do you recall now say in 2007/2008 what that limit was?---It could have been 30,000 or 50,000, I'm not really quite sure.

You've been suspended from your position at the moment. Is that right?---I have, yes.

10

And when were you suspended?---On 13 December.

Last year?---Yes.

So in 2010 do you remember what your limit was?---It would have been around about the same I guess.

THE COMMISSIONER: But you don't know what it was?---No.

20

Isn't that unusual?---I suppose it is, but - - -

Shouldn't you know?---I should know, yes.

MR STRICKLAND: So when it was above the limit, whatever that limit was, what was the process then?---It would then be delegated to capital works.

30

And what role did you have – what role did capital works have in relation to that contract?---Capital works would then take over that process. We would then still get quotes for them as per normal quoting system, that would have been passed on to capital works and they would then - - -

THE COMMISSIONER: Whose task was it to refer the matter to capital works or because it exceeded delegation?---My supervisor, yeah.

And who was your supervisor?---Cameron Creary.

40

MR STRICKLAND: But if the works – because of the value of the contract was referred to capital works you still had a role didn't you in obtaining quotations and then, and then making sure – well sorry, you had a role in ensuring which quotations would go up to capital works. Is that right? ---Well all quotes went to capital works, yes.

Yes but, but who decide which, which entities would give the quotes to capital works?---That was just in the same process it was with getting any quote with the two preferred contractors.

So you only ever used the two preferred contractors. Is that correct?---Yes.

Did you hear – whilst you were there, say from 2007 on were you aware that any, anyone was pushing for the fact that there should be more than two preferred contractors?---It was discussed.

By whom?---By – in our, in our meetings it was discussed through Cameron and through Stewart and through Scott.

10 All right. And what - how was it resolved?---I don't think it ever was.

So from 2007, I'm just picking that as a relevant date up until the time you were suspended there were just the two preferred contractors?---That's correct, yes.

Were you ever asked by anyone to find out if there could be a third preferred contractor or a fourth preferred contractor to get on the list?---No.

No one ever asked you to do that?---No.

20 No?---No.

Okay. Did you get a – was it your understanding or impression that over the years Kings was a more preferred contractor than Sielox?---Based on their work professionalism I suppose it was, yes.

Now in your – have you got your statement there?---Sorry?

Have you got your statement?---Yes, yes.

30 Just go to paragraph 20, please?---Yes.

You say that you recall shortly after Robert Huskic moved into a new unit. Now I'm just not sure, shortly after what? I'm sorry, I beg your pardon. Do you know when he moved into his new unit?---Not exactly, no.

But roughly?---(No Audible Response)

You don't recall?---No.

40 Okay.

THE COMMISSIONER: What year?---(No Audible Reply)

You don't even know that?---No, I can't recall that, no.

MR STRICKLAND: In any event you describe a discussion, you asked Robert who was installing all the locks, he just laughed and said, who do you think?---Yes.

Your understanding was that he was referring to Kings. Is that right?---Yes. Because it was Abloy keys, he was saying that it was going to be Abloy keys in his unit.

Was your understanding that Kings would be installing that as a gift or for free?---He didn't say that, no. He just said Kings were going to install it. I presumed that that would be the case. I don't know.

10 Well that's the point, he didn't say Kings were going to be installing, he said, who do you think?---Well, yes.

So was your understanding on the basis of that statement that Kings would be doing it and would be doing it for him for free?---I presumed so, yes.

And why did you make that presumption?---Sorry?

Why did you presume so?---Just the way he said it I suppose. He laughed it off and said, yes, you know, who do you think is going to do it.

20

You then refer to a - Robert riding a black Vespa motor scooter?---Ah hmm.

And him saying to you, "Do you want to see the bike I am buying." Did you find it strange that Robert Huskic was buying a bike?---No.

Because of his own - did you find it strange that he had the money to buy that bike?---No.

Are you sure about that?---Yes.

30

Did he tell you, did he tell you whether Kings had any role in paying for that bike?---No, he didn't, no.

Did, did Robert apart from the issue of Kings, well your presumption that Kings installed the locks did Robert Huskic tell you of any other, of any gifts or benefits or cash that he received from Kings?---No.

Did Mr Creary ever tell you anything like that?---No.

40 Now you received a computer screen from David McMicking, is that right?--That's correct.

And when was that?---Approximately three years ago, two, three years ago.

So we're talking around about 2009, 2010, is that right?---Yes, yeah.

And what were the circumstances in which you, in which David McMicking gave you the computer screen?---All right. I just bought my sons an Xbox

and at home we had a very large big box TV and I was trying to configure their bedroom better so I thought I might get a smaller flat screen for the Xbox instead of the big TV, so I phoned Cameron and asked him if he knew the, a make and model that would, would be compatible with the Xbox and he said there are various ones around and he said probably better to ring Dave 'cause he's more, he'll have more expertise in that field. So I rang David McMicking and I told him exactly what I was after and, and I said you know, you know with the make and model and where I can get one and he said oh, he said that he had an old screen in their storeroom they were
10 going to throw out because it was, it was - happened to be a second-hand one that was used in a previous job and they had taken it out of that job, it was stored in their storeroom, they, they couldn't resell it, they had nothing to do with, they couldn't do anything with it and he said I can have that one and I said thanks very much.

But you didn't pay for it?---No.

Do you know what its value was?---\$50 if that.

20 And how do you know that that was its value?---Sorry?

How do you know that that was what it was valued at?---It's just a very small second-hand screen, I mean it's just be worth almost nothing second-hand.

And did you receive any other gifts or benefits from David McMicking or from Kings?---I went to a rugby game once with them, yes.

30 The State of Origin?---No. An All Blacks game.

All Blacks game. And they paid for the ticket?---Yes.

And do you know what the value of that ticket was?---No, I don't know.

Anything else?---No.

You would take - Mr McMicking took you to lunch from time to time, is that right?---Yes, on business lunches, yes.

40 Right. And paid for it?---Yes.

Did you - in relation to the All Black ticket and the computer screen did you disclose to your employer that you'd received those benefits, gifts from Kings?---Not the screen, no.

But the, but the, but the ticket, yes?---I had discussed with my, my supervisor, yes.

As in Mr Creary?---No, no, Mr Anderson.

Mr Anderson I see?---And Mr Stewart. No, sorry, not Mr Stewart, Adams, sorry, Mr Adams.

So you told them before you went that you got the, the ticket, is that right?
---No, after it.

10 After, okay?---The next day. Sorry, on the Monday the game was on a Saturday.

And were you aware of the AHS policy about receiving gifts and benefits from contractors such as Kings?---YES.

And do you believe you, you'd adhered to that policy when you, in accepting the computer screen?---Probably not, no, although at the time I thought it was worth nothing so it really meant nothing to me I just, you know - - -

20 You're saying in hindsight you would have not accepted it, is that right?
---Either not accepted it or, or, or told my manager about it, yes.

Were you trained in the fact that generally you don't accept benefits or gifts from contractors, people who the Area Health Service is doing business with, were you trained in that?---Trained in it, not necessarily trained in it no, it was, it was mentioned from time to time but not necessarily, we didn't go to any training sessions or anything, no.

30 You had a Code of Conduct about that didn't you?---Not fully, no.

Have you read the Code of Conduct about the gifts and the benefits?---Yes.

You also, Kings also sponsored your football team, is that right?---That's correct.

But you disclosed that?---Yes.

40 Did Robert Huskic ever tell you that he did any work outside office hours on Charlie Diekman's boat?---No.

Never discussed that at all?---No.

Did you ever have any discussion with Robert Huskic about Charlie Diekman?---Not necessarily, no.

I beg your pardon?---Not, not really, no.

Yes. They're questions, thank you.

THE COMMISSIONER: Yes, thank you. Does anyone wish to question Mr Kuiper?

MR LORKIN: Commissioner, I have some very brief questions.

Mr Kuiper, I believe you know me, I'm Mr Lorkin and I represent Mr Creary?---Yes.

10 I'd just like to ask you a couple of questions on his behalf. You just gave some short evidence, some evidence in relation to discussing the football attendance with your supervisor Scott Anderson?---Yes.

There's a chain of hierarchy as a diagram that we've seen in relation to your position?---Yes, yes.

And I think on that diagram you were reporting through Cameron Creary?
---There was two different ways of reporting through Cameron or Stewart Adams, yes.

20

Yes. Now, for annual leave, sick leave, Code of Conduct matters and the like you'd go to Scott Anderson?---No, I'd first of all go, things like that would go through, through either Cameron or Stewart and then, and then they presumably would pass that onto Scott.

Was it your understanding that Cameron had no approval in relation to your annual leave?---That's correct, yes.

30

No approval capability in relation to quotes?---That's correct.

Approving quotes?---Yes.

Ensuring they were paid?---No.

Now, you gave some evidence a short time ago that you understood that capital works matters would go through Cameron?---Yes.

But that do you mean that he would approve the capital works?---No.

40

Was it your understanding that they'd be sent off somewhere?---That's correct, yes.

Who to?---Capital Works.

Who would approve those matters?---Capital Works would I think, yeah.

Is it the case that you only ever had one course in relation to any of these policies whilst you were an employee of AHS?---Yes.

And that was in about September last year, 2011?---Yes, yes.

And that was in relation to some ICAC matters that had evolved in relation to an unrelated incident?---No, we were just, we were just given a, a course and a lecture by a person from the Northern Sydney Health legal department.

10 About ICAC involvement and ICAC matters in relation to your Area Health Service?---I don't know whether it was called ICAC, it was more to do with the Code of Conduct, yeah.

But apart from that I'll show you, have you ever received a lecture in relation to policies?---No.

THE COMMISSIONER: I'm not sure what this has to do with Mr Creary but anyway I think you - unless you can explain to me why it's relevant this line of questioning should stop.

20 MR LORKIN: Well, I certainly can explain, Commissioner, that Mr Creary's in a similar situation and there's been some suggestions about some items that he received and some training courses in relation to - - -

THE COMMISSIONER: Mr Kuiper didn't get - - -

MR LORKIN: I'll move on, Commissioner, I'll move on. I hear you, Commissioner.

30 Pardon me very briefly, Commissioner. I have nothing further, Commissioner.

MR STEWART: Just one question. Mr Kuipers, when you went to some lunches with Kings were your supervisors advised that you were going to those lunches?---Yes, they were.

Did your supervisors encourage you to go those lunches?---They did, yes.

No further questions.

40 MR LLOYD: No questions, thank you.

THE COMMISSIONER: Yes, thank you Mr Kuipers, you're excused.

THE WITNESS EXCUSED

[11.20am]

MR STRICKLAND: I call Michael Hingerty.

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Commissioner, can I just before this witness could I just please tender some documents, please.

10 THE COMMISSIONER: Yes.

MR STRICKLAND: I tender a statement of New South Wales Health provided to me today. Thank you.

THE COMMISSIONER: A statement by whom?

MR STRICKLAND: New South Wales Health.

20 THE COMMISSIONER: Statement by - - -

MR STRICKLAND: Provided to me by - - -

THE COMMISSIONER: - - - by New South Wales Health is Exhibit 229. that, that's in light of my brief answer that it appears to relate only to corruption prevention.

#EXHIBIT 229 - STATEMENT OF NSW HEALTH

30

MR STRICKLAND: That's correct.

THE COMMISSIONER: So I don't think this will affect any party who has an interest in the proceedings other than New South Wales Health.

MR STRICKLAND: Thank you. And related to that and this is also simply corruption prevention for Area Health is a statement from James, no, I withdraw that. This is corruption prevention but generally. A statement of James Norfor, N-o-r-f-o-r dated 14 August 2012. It's only corruption prevention.

40

THE COMMISSIONER: And a statement by James Norfor who is the executive director of New South Wales procurement dated 14 August 2012 is Exhibit 230.

**#EXHIBIT 230 - STATEMENT FROM MR JAMES NORFOR
DATED 14 AUGUST 2012**

MS FURNESS: Commissioner, I understand from the tender that relates to New South Wales Health is not a statement I'm familiar with.

THE COMMISSIONER: Which one?

MS FURNESS: The one that's just been tendered.

10 THE COMMISSIONER: Well you should be given a copy and if you have any objection let me know.

MS FURNESS: Thank you, Commissioner.

MR STRICKLAND: I apologise, Ms Furness, if she hasn't - that she, that she has not been given a copy.

I tender a New South Wales - - -

20 THE COMMISSIONER: Yes. Sorry, I just need - have we got a copy available for Ms Furness or do we need to have a copy made?

MR STRICKLAND: Perhaps we could get a copy made if that's convenient.

THE COMMISSIONER: Yes.

MR STRICKLAND: It doesn't - I don't anticipate there'll be a problem. She's got it now.

30 I tender a New South Wales Government Procurement Policy document dated July 2004 called Policy and Guidelines Paper.

THE COMMISSIONER: Yes. The New South Wales Government Procurement Policy Guidelines dated July 2004 is Exhibit 231.

#EXHIBIT 231 - NSW GOVERNMENT PROCUREMENT POLICY GUIDELINES DATED JULY 2004

40 THE COMMISSIONER: Should that not have been, a copy not had been given to the previous counsel for the previous witness? Who was cross-examined about the guidelines.

MR STRICKLAND: They're the - no, not those guidelines. The guidelines that were cross-examined on have already been in evidence through Rachael - - -

THE COMMISSIONER: Are they in evidence?

MR STRICKLAND: I'm sorry, Richard Griffith. They've already been tendered through - it's Exhibit 166 I believe.

Commissioner, there is, there has been circulated and it's only relevant to certain parties, a statement or a draft statement of George Chrobak C-h-r-o-b-a-k.

THE COMMISSIONER: Sorry, do you mind spelling that again?

10

MR STRICKLAND: C-h-r-o-b-a-k. He's the - Chrobak. Thank you very much, thank you. He is the Pelco New South Wales sales manager. Now we should be in a position to get a signed statement to the parties this afternoon. Mr Lloyd has kind indicated that unless there's some radical change from the finals of the draft he doesn't require Mr Chrobak and I think Mr Naylor's of the same view. I just wonder if parties could indicate to us, I don't imagine there'd be any requirement but if there is any requirement for him to be cross-examined if we could be notified by the end of today.

20

THE COMMISSIONER: Yes. I'm sure whoever wants him will ask for him.

MR LLOYD: We don't need him, Commissioner.

THE COMMISSIONER: Yes, very well.

MR LLOYD: In fact I don't if the statement is tendered. I mean sure the officers have spoken to him. I mean I'm happy if that's taken into statement.

30

THE COMMISSIONER: Very well. Thank you, Mr Lloyd.

MR STRICKLAND: Mr Hingerty, thank you very much for returning. Mr Naylor who is counsel for Mr Diekman asked you questions on the last question and I'll just remind you of those questions and your answers. This is at page 2201 line 25.

THE COMMISSIONER: Can that be put up, please. Sorry page?

40

MR STRICKLAND: It's, it's the, just - it's 27 August 2012.

THE COMMISSIONER: Yes. What, what page is that?

MR STRICKLAND: Page 2201.

THE COMMISSIONER: Yes.

MR STRICKLAND: And you were asked these questions, this is about line 25.

UNIDENTIFIED MALE SPEAKER: Do I not get a copy of this?

THE COMMISSIONER: It'll be on the screen. Have you got a copy for Mr - - -

10 MR STRICKLAND: It's the question that begins, "And correct me if I'm wrong, my notes are a little rough". Do you see that?---Sorry, say that again?

Just go 2201 halfway down the page?---Yes.

THE COMMISSIONER: Line 25.

MR STRICKLAND: Which beings, "And correct me if I'm wrong"?---Yes.

20 "My notes are a little rough". But my understanding of the evidence that you gave when Counsel Assisting was asking you questions about the sending of those quotations was that you "literally sent out, you'd sent out literally hundreds of quotations and you answered over the years with that form". Answer, "Yes." "So this is the period prior to about October 2007". You answered, "Yeah." So you're talking about there the form with the MJH Security Installation form?---Correct.

30 Question, "Right. So this the period prior to about October 2007"? Answer, "Yes." And it's these questions I want to ask you about. "It's possible is it not that you might have sent at least one of those quotations to Mr Diekman at the Kings Security Group?" You say, your answer was, "I'm very confident I wouldn't have done that." Question, "Can you say categorically?" Answer, "Yeah, I'll say categorically. Why would I, it should be send a quote to a competitor. It's madness." Question, "Well I don't know. I'm suggesting that at some point in time you did." Answer, "Well I'm suggesting that I wouldn't do that, is my answer." Did you – have you ever received a request from Mr Diekman to use your quotation head, your quotation form or your letterhead so that he can send your quote to a client or to some other party?---I don't recall him ever requesting that, no.

40

Okay. Now your email address is mick@mjhsecurity.com.au. Is that correct?---Correct.

And you've had that for quite a few years. Is that right?---Yes.

You've certainly had it since 2007/2008?---Definitely.

Okay. I just want to show you a document, please. I tender an email from Mr Charlie Diekman to Mick Hingerty.

THE COMMISSIONER: I'm going to mark Mr Chrobak's draft statement as Exhibit 232. When, if and when we get a signed statement off him it will be substituted for the draft.

#EXHIBIT 232 - DRAFT STATEMENT OF GEORGE CHROBAK

10

MR STRICKLAND: Thank you.

THE COMMISSIONER: And Exhibit 233 will be this email. Do you have copies Mr Strickland?

MR STRICKLAND: Yes, I do. It's from Charlie Diekman to Mick Hingerty dated 22 February, 2008.

20 THE COMMISSIONER: Is it just one email?

MR STRICKLAND: It's one email which contains some, I'm sorry, it's one email but it contains some attachments.

THE COMMISSIONER: Yes. If I can just - - -

MR STRICKLAND: It's headed No Subject.

THE COMMISSIONER: Well I'm just waiting for a copy.

30

MR STRICKLAND: Yes.

THE COMMISSIONER: The email from Mr Diekman to Mr Hingerty with attachments dated 22 February, 2008 is Exhibit 233.

**#EXHIBIT 233 - EMAIL FROM MR DIEKMAN TO MR HINGERTY
DATED 22 FEBRUARY 2008**

40

MR STRICKLAND: Now do you have a copy of that Mr Hingerty?---Yes.

And are you familiar with this email?---No.

Just turn over the page you'll see it's what's called metadata where computer analysts can look at behind the email to find various information about it. And you'll see that it's got the date of it and then it's got in the,

just above the title properties it's got mailbox and sent items. Do you see that?---Above properties?

Yes, that's right?---It says, name, path, digest.

Could I have the document and I'll just, I'll highlight what I want to show you. Just above the word properties, which is about a third of the way down the page, I've highlighted the last words before that word which is mailbox subtree/sent items?---Yes.

10

And I can, I inform you that that means that this email of Mr Diekman was found in the sent items in the outbox express of Kings, do you understand that?---Yeah.

In other words, that email was sent to that email address. Do you understand that?---Yes.

And that is the email address that you use isn't it?---Correct.

20

And then if you just go, if you just turn - I've shown you the first page of the metadata which has mailbox sent items but if you just go to the third page you'll see your name and your email address there, do you see that, on the third page?---At the bottom of it?

At the bottom of it?---Yeah.

And that indicates that that is the email address that the email was actually sent to?---Okay.

30

Okay. And then if you turn over that page you'll see that there was a quotation from MJH Security Installations and that's the old title of the company isn't it?---Correct.

The former title addressed to attention Robert Scott 5.00pm et cetera, Knight Frank, do you see that?---Yes.

For access control system at 2 Constitution Avenue?---Yes.

40

And at the bottom it's got Michael Hingerty, Senior Sales Engineer, do you see that?---Yes.

And the metadata for that document indicates that that document was -t he author of it, the last author of it was Charlie Diekman if you see that, Friday, 22 February, 11.07?---Sorry, I don't know where I'm looking now.

THE COMMISSIONER: The last, I think it's the third page from the end, fourth page from the end, I beg your pardon.

MR STRICKLAND: If it's quicker you show it to me again and I'll show you exactly where I'm looking at?---I think that's the page.

Thank you. I've just highlighted the last author, charliediekman which is one work, do you see that?---Yes.

Which indicates that that be MJH Security Installations quote was the author of it, it was, it was created on 22 February, 11.07 by Charlie Diekman, that's what the metadata had indicated. Do you see that?---Yes.

10

And then if you, if you go, keep on turning the pages, another email from Charlie Diekman to Mick Hingerty which is just entitled "again" but the top of it is "again"?---No, I don't have that.

I'll have to have it back again, I'm afraid. Could he be shown that one. Have you got that now - - -?---Where am I?

I'll hand you this document. You did, you did have it, do you see that email "again"?---Yes.

20

From Charlie Diekman to Mick Hingerty?---Yes.

And again there's an email address of robert.scott.au., do you see that? ---Yes.

In other words he's emailing you the address, he's emailing you that email address. Do you understand that?---If that's what you say, I don't fully understand it but yeah, I'll take your word for it.

30 THE COMMISSIONER: Well, the email, all the email contains is this address, robert.scott, do you see that?---Yeah, I can see that.

So he's sending you, Charlie Diekman is sending you an email which just contains simply the address of Robert Scott?---I don't recall receiving this.

40 MR STRICKLAND: I mean, what those emails indicate is if you look, if you just go to the top, the very first page of the first email that Charlie Diekman has sent an email to you which has been received in your outbox, sorry, received in your inbox where he's asked you to send to robert.scott at au.knightfrank.com a copy of the quotation that appears in this chain of emails. Do you understand?---I understand that.

And you're saying you have no recollection of that, of you receiving it? ---No, I don't recall receiving that, no.

Do you have any explanation how that, this email was, and the second email saying "try again" was sent - - -

THE COMMISSIONER: Not try again, again.

MR STRICKLAND: "Again" I'm sorry, thank you. Do you have any explanation why those two emails were sent to your email address?---No, I have no idea.

You had no conversation with Mr Diekman about sending a quote or him sending a quote to Robert Scott in relation to that address, 2 Constitution Avenue, Camden?---No.

10

Are you saying you've never seen these emails before until I've just shown you them now?---Correct.

I tender another email chain, the last of which is entitled "help" from Charlie Diekman to Mick Hingerty dated 19 May, 2008.

THE COMMISSIONER: Mr Hingerty, who opens your emails at work? ---Predominantly myself but others do have access to it.

20

MR STRICKLAND: Can I just ask, before I get to this email, have you ever quoted for work at Knight Frank or for Knight Frank?---I'd have to go back and check but I don't recall, no, I don't think so.

THE COMMISSIONER: Are you tendering this - - -

MR STRICKLAND: I tender this chain of emails.

THE COMMISSIONER: Yes. The chain of emails with attachments, the last email being from Mr Diekman to Mr Hingerty of 19 May, 2008 is Exhibit 234.

30

**#EXHIBIT 234 - CHAIN OF EMAILS WITH ATTACHMENTS
WITH EMAIL FROM MR DIEKMAN TO MR HINGERTY SENT
ON 19 MAY 2008**

MR STRICKLAND: Have you ever seen that email before?---That's the top page, the first page?

40

That's right?---No, I don't believe so. When was it?

Again, if you turn to the metadata it indicates that that is a sent item, that is it was sent from the Kings Microsoft Outlook, Mr Kings', Mr Diekman's Outlook Express and if you just keep on turning the page you'll see another email which is entitled "Quote as requested" from Charlie Diekman to M Carpenter dated 22 May, 2008 which contains a quote on your letterhead to Michael Carpenter re CCTV systems upgrade, do you see that?---Yes.

And do you recognise that quote?---No. These, these quotes are like the other ones we spoke about before, they're not consistent with the way we do business.

10 No, I understand that but here there is emails from, which have been sent from Mr Diekman asking you to send him copies of quotes. What I'm asking you is can you explain, in other words, what this indicates is that Charlie Diekman has sent Michael Carpenter a copy of a bogus quote on your letterhead which you say wasn't used at the time but three days before he sent that quote he asked you to send you a copy of the CCTV quote "as discussed last week".

MR NAYLOR: Commissioner, I object to this line of questioning. These are questions in my submission, Commissioner, which appear to be beyond the general scope and purpose of - - -

20 THE COMMISSIONER: It will go to credibility. The course of conduct. Yes, Mr Strickland. There'll be no findings that, that will affect the parties involved, but there could be findings relating to this material which affect the credibility of Mr Hingerty and also Mr Diekman.

MR NAYLOR: Yes, I appreciate that, Commissioner.

30 MR STRICKLAND: This first email, Exhibit 234 indicates that you had a discussion with Mr Diekman some time in the week before he sent the email about you sending him a copy of a quote in relation to CCTV. That's what it says on its face doesn't it?---I don't know what it says on its face. I'm telling you I haven't seen it before.

I know you say you don't know what it says, it says it, "Mick, can you send me a copy of the CCTV quote as discussed last week." That's what it says?---Can I say something?

Yes?---19 May it says up the top here.

40 Yes?---And that's approximately a date every year that I'm away from my business for a period of 10 to 14 days doing a sport that I do. I'm not saying it's the exact date, but I'm pretty sure it's in that timeframe.

But I understand that, but what this email states, because it's addressed to you not to someone else in your firm, "Mick, can you send me a copy of the quote as discussed last week?" In other words - - -?---I don't recall any discussion.

I haven't finished, I haven't finished the question. What the email is stating is that you did have a discussion with Mr Diekman about a quote for CCTV. And you say you don't remember - - -

THE COMMISSIONER: Well the very, about the quote which is part of this bundle.

MR STRICKLAND: That's right. Do you have – you don't recall any discussion about that subject matter. Is that right?---Correct.

10 Can you – do you have any explanation how this email ended up being sent from Mr Diekman's Outlook Express and into yours?---I can't speak for him.

No, but you received it?---Well I don't recall it so I don't know if I received it.

20 THE COMMISSIONER: The metadata show that it was received by your computer?---I understand, Commissioner, I accept that and I won't argue with the expert that says that. But I'm telling you that I don't personally recall ever seeing that email. And I'm also making the comment that I believe that's potentially dates I wasn't here.

MR STRICKLAND: You said to the Commissioner that other people open up your email.

THE COMMISSIONER: May, may.

30 MR STRICKLAND: May, I'm sorry. Thank you, may. Who – which other people may open up your email back in 2008?---I'd have to check who was actually there in that period of time. But it would have been for example whoever the person was that I left in charge.

All right?---Or the bookkeeper perhaps, administrative assistant perhaps.

But you can't give us any names can you?---Well I like to be factual so I'll check who was there.

So do you deny authorising Mr Diekman to send a quote on your letterhead to Mr Carpenter?---Yes.

40 Do you deny having any discussion with Mr Diekman about that fact?---I do not recall any discussion with him.

THE COMMISSIONER: But do you deny having a discussion? I mean are you saying it's possible but you can't remember it or you're saying you didn't have a discussion?---I'm saying I don't recall a discussion and I don't believe I would have had one. But if you want me to be more definitive then I guess I'll say no.

No, I don't, I just want to know what your evidence is. I mean the point is didn't you say I don't remember such a discussion that carries with it two possible meanings and I just want to know which one you intend. One possible meaning is that you don't remember such a discussion, it's possible that you might have had it, but you can't say because you just don't remember whether you had it or it may mean I don't remember it and had it happened I would have remembered it. So which of the two is it?---The latter.

10 MR STRICKLAND: I tender an email chain from Charlie Diekman to Samantha Jarvey dated 30 June, 2009.

THE COMMISSIONER: Yes. An email chain with the last email being from Mr Diekman to Samantha Jarvey dated 30 June 2009 is Exhibit 235.

**#EXHIBIT 235 - EMAIL FROM MR DIEKMAN TO MS JARVEY
SENT AT 9:40AM ON 30 JUNE 2009**

20

MR STRICKLAND: Now I simply want to show you a couple of times on this, in the lead up to some other questions I want to ask you. If you, if you turn over to the fifth page you'll see there's a quote on Kings letterhead to Jones Lang LaSalle for a CCTV system?---Yes.

And it's a quote for \$106,000, 106,850. Do you see that?---Over the page, yeah.

THE COMMISSIONER: Sorry. What page are you - this is?

30

MR STRICKLAND: It's the second page of the quote.

THE COMMISSIONER: Second page of the quote.

MR STRICKLAND: It's the fifth page of the email chain or the sixth page.

THE COMMISSIONER: So it's the second page of the quote dated 30 May 2009?

40 MR STRICKLAND: Yes, that's right.

Do you see that, Mr Hingerty?---Yes.

And you'll note that it's the addressee of the quote is June, Jones Lang LaSalle of 175 Liverpool Street. I just want you to draw - - -?---Yeah.

- - - it to your attention? And then if you keep on going you'll see and this is the last three pages of the, last four pages I'm sorry of the bundle, you'll

see a second quote on Kings letterhead to Jones Lang LaSalle dated 13 May 2009 and the quote over the page is 110,500. Do you see that?---Yeah.

Okay. I tender another chain of emails from Charlie headed 'No subject' from Charlie Diekman to Mick Hingerty dated 1 July 2009 with various attachments.

THE COMMISSIONER: It's a chain of emails is it?

10 MR STRICKLAND: It's an email with some attachments.

If I can just take you to the first page.

THE COMMISSIONER: Just a moment, please, Mr - - -

MR STRICKLAND: I'm sorry, I beg your pardon.

THE COMMISSIONER: The email from Mr Diekman to Mr Hingerty of 1 July 2009 with attachments is Exhibit 236.

20

#EXHIBIT 236 - EMAIL FROM MR DIEKMAN TO MR HINGERTY WITH ATTACHMENTS SENT ON 1 JULY 2009

THE COMMISSIONER: Yes. Thank you.

MR STRICKLAND: Now the first page which is on the metadata again is found in the cent box of the Outlook Express is an email from Charlie
30 Diekman to you and it's simply, the message is a email address of Andrew Denton Burke. Do you see that?---Yes.

And then if you, if you turn over the page and you go past the three pages of metadata you'll see a quotation MJ Security Installations. Do you see that?--Yes.

Which is the what we described as the bogus quotation, is that correct?
---Correct.

40 And it's addressed to Andrew Denton Burke Jones Lang LaSalle. Do you see that?---Yes.

Do you recall receiving that email from Mr Diekman with the attachment with an attachment of or any attachment?---I don't recall receiving an email, no.

So do you recall ever tendering or sending a quote to Andrew Denton Burke of Jones Lang LaSalle in Relation to 175 Liverpool Street?---I don't recall that, no.

Do you ever recall having a discussion with Mr Diekman about Kings sending a quote on your letterhead or in your quotation book or quotation head about that?---No, no. And this, this quote here also uses product that we're not even trained on or authorised to use.

10 There's no dispute that the quote is bogus?---Okay.

There's not, there's no dispute about that, the question, the question is whether you knew that Mr Diekman - - -

THE COMMISSIONER: Whether you've seen this.

MR STRICKLAND: - - - was sending a bogus quote?---Well, the answer to that question is no.

20 But can you explain why, how this email is sent from Mr Diekman and then received in your email - - -

MR HALSTEAD: Well, I object to that, I don't think there's evidence (not transcribable)

MR STRICKLAND: Well, there is, it's in the metadata.

MR HALSTEAD: Which metadata (not transcribable)

30 MR STRICKLAND: Well, it's the - - -

MR HALSTEAD: There's evidence of it being sent.

MR STRICKLAND: Yes.

MR HALSTEAD: There's no evidence of it being received.

MR STRICKLAND: Well, on the third page of the metadata it's got to Mick Hingerty, mick@mjhsecurity.com.au.

40

MR HALSTEAD: Yes, well, my understanding is this is the metadata from Mr, Mr Diekman's - - -

MR STRICKLAND: That's correct.

MR HALSTEAD: Commissioner, it's not, it's not an extract from Mr Hingerty's metadata.

MR STRICKLAND: That's true, that is true.

MR HALSTEAD: So there's some evidence it's been sent, I don't think there's any evidence that it has been received.

MR STRICKLAND: There's no evidence, I can inform the Commission that there's no evidence that it has bounced back and generally an email is indicated whether its been sent and it hasn't been bounced back then you would infer that its been received. I think there's some, there's some law
10 on that we don't have to hand in terms of the ordinary course of - - -

THE COMMISSIONER: Just proceed, we don't have time to deal with this. It can be the subject of argument.

MR STRICKLAND: Indeed. In any event, you say you've never received it, is that correct?---I don't recall receiving it, no.

Does that you may have received it and you simply don't recall it?---How many times do I have to say it? I don't recall receiving it, I hadn't seen this
20 before you showed it to you.

THE COMMISSIONER: But had you received it would you have recalled it, is that what you - - -?---I would think so, yes.

There's a curious thing, Mr Hingerty, you've got three emails now that there are records of having been sent, I think two of having been received, you don't recall having seen any of them even though they were addressed to you?---Definitely.

30 Can you explain that?---Well, I made the comment before that I think the dates that you showed me, I don't think I was even here on those dates.

Well, this last one was 1 July, 2009?---Yeah, I was possibly here on that date. I'm not the only person that has access to it and I think, my counsel even said we don't even know if I actually received this.

MR STRICKLAND: But, Mr Hingerty, can you explain why Mr Diekman, why would Mr Diekman write that he had spoken to you about a subject, I'm not talking about this email, I'm talking about the last one, if in fact that
40 had never occurred?---I can speak for what he says.

THE COMMISSIONER: Why do you think he's sending that to you? Why do you think that on three occasions he sent you bogus quotes?---Either there's something going on in the background that I didn't know about at the time or he was hoping that I'd do it, I don't know, I can't, sorry, I can't help you.

Well, he's sending it to you without any explanation, the inference is that he thought you would understand exactly why he's sending it to you?---I can't comment for what he thinks.

He would have no grounds for believing that you would understand, is that what he's, what's he doing, is that, is that your evidence?---If I received the email that's been presented here right now - - -

No, I'm talking - - -?---Well, that's what you're asking me.

10

I'm talking about him sending - he, he would have - I'm asking you whether he would have any grounds for believing that you would understand why he was sending you the emails that he sent you?---I can't answer that, I don't know what he thinks.

I'm not asking you what he thinks?---Sorry, can you ask the question again, sorry.

20

Do you know of any grounds which would explain why Mr Diekman sent you these three emails particularly having regard to the fact none of the emails explains why he's doing and what he expects you to do with them? ---No, I can't.

He was just doing some, doing acts which are entirely inexplicable?---I can't comment.

Well, from your point of view?---Well, if I received that email that's here now it doesn't even make sense to me.

30

I'm asking you whether, I'm just giving you the opportunity to explain why Mr Diekman has done this if you can?---I can't explain it.

All right.

MR STRICKLAND: Excuse me, Commissioner. I tender a string of emails entitled Don't Miss Out, the last of which is from Mr Diekman to Daniel Paul and Michelle Kellet dated 30 June, 2009.

40

THE COMMISSIONER: A string of emails, the last being from Mr Diekman to Michelle Kellet and Daniel Paul dated 30 June, 2008 is Exhibit 237.

#EXHIBIT 237 - EMAIL STREAM WITH FINAL EMAIL FROM MR DIEKMAN TO MS KELLET AND OTHERS RE DON'T MISS OUT SENT ON 30 JUNE 2009

MR STRICKLAND: It's 2009, Commissioner, I think, 30 June, 2009.

THE COMMISSIONER: Oh, sorry, I beg your pardon, 30 June, 2009.
Thank you.

MR STRICKLAND: Could you just go to the third page. I beg your
pardon, the fourth page. You'll see that there is an email from yourself to a
number of people dated 29 June, 2009 at 6.27pm. Do you see that?---At the
bottom?

10

Yes?---Yep.

And do you accept that you sent that email?---On the face of it, yeah.

Well have a read of it?---Oh, it goes over the page.

THE COMMISSIONER: What page - - -

MR STRICKLAND: It's the bottom of page 4?---Yes, I sent that I believe.

20

And if the witness could be given Exhibit 236 again, which is the Charlie
Diekman to Mick Hingerty, 1 July.

THE COMMISSIONER: Am I looking at the right page? Is this, is this the
page that begins, importance high?

MR STRICKLAND: Yes, that's the one. Right at the bottom.

THE COMMISSIONER: Right at the bottom.

30

MR STRICKLAND: I'm sorry, no it's not, I beg your pardon, no, it's the
page before that, Commissioner. A page before importance high, it says,
"Oh, it's so sweet."

THE COMMISSIONER: Oh, I see.

MR STRICKLAND: Just at the bottom of that page and the email continues
to the next page. It's more the - it's the date of the email that's important
rather than its contents.

40

THE COMMISSIONER: Is that, am I looking at - you're referring to the -
- -

MR STRICKLAND: Email from Mick Hingerty to Daniel Paul and
Michelle Kellet dated 29 June.

THE COMMISSIONER: Yes, but I'm, I can't find the page.

MR STRICKLAND: Could I have it, Commissioner and I'll assist you.

THE COMMISSIONER: I'm not sure which email you're actually referring to.

MR STRICKLAND: It's okay, I'll – it's this, I'll just mark it if I could.

THE COMMISSIONER: Thank you. Yes. Thank you.

10 MR STRICKLAND: So you accept that you were sending an email from your mjhsecurity.com.au address two days before Mr Diekman sent you an email on 1 July, 2009, which is Exhibit 236? Do you agree with that?---I've replied to an email on the 29th, yep.

It doesn't matter whether you replied or not replied, you sent it?---Yes.

Well you've used that email address on 29 June?---Yes.

20 So that would suggest wouldn't it that you're still around using your email end of June, early July?---There is multiple ways to access my email from multiple locations.

Precisely. So there'd be no reason why you couldn't access your email on 1 July 2009 which is the date of the Exhibit 236?---And as I said before I'd like to check those dates but I think that's when I wasn't here but - - -

30 But., but even if you weren't here as you've just said you can access your email multiple places. You just said that didn't you?---Yeah, I can and I'd like to clarify if I can, Commissioner? What I said before was and if it is the dates I think but I'd like to check it if it's the dates I think.

THE COMMISSIONER: Well the fact is that you, you - - -?---He's asked me a question I'd like to clarify.

You've conceded that you sent the email on that, on, on 29 June 2009?---Yes.

40 Which would, which seems to establish that you were able to send emails on that date and if you're able to send emails on that date I presume you're able to receive emails on that date, at that particular email address?---Yes.

MR STRICKLAND: Isn't the truth, Mr Hingerty, that, that Mr Diekman did from time to time communicate with you either by email or by phone asking you to use your letterhead, your quotation so he could send bogus quotes to other parties?---No.

And your evidence denying that is false I suggest?---I don't believe so.

You were the subject of a - you were questioned at a private hearing at the end of May this year. Do you remember that?---Yes.

And is it the case that since then you've spoken to Mr Daniel Paul?---I have had occasion to speak with him, yes.

You're still friends with him aren't you?---Correct.

To, to this day?---Correct.

10

And you have talked to him haven't you about the subject matter of this investigation?---No.

Not one word?---No, because it was made quite clear to me when I came here the first time that I wasn't allowed to speak about anything that was done at the private examination or whatever you called it.

20

But I'm not suggesting that you spoke about what was - you were asked at the private investigation on 31 May but Mr Paul spoke to you about matters such as gambling in the ISC conferences didn't he?---I don't recall we may have.

And what may you have, what may you have said?---I'm saying I don't recall it but I'm not saying it didn't happen, I don't recall it. I don't believe that we did.

Are you sure about that?---That's why I'm saying I don't recall that and I don't believe that we did but I'm not going to say categorically no because - - -

30

Because you could have. Is that right?---Because I don't recall the content of every conversation that I've had with him between then and now.

I'm not asking you about the precise content of the conversation I'm talking about the general subject matter you talked about?---General subject matter, we talked about football, we talked about car racing, we talked about lots of things.

40

I'm not asking you, I'm not asking you about the football and the car - - -? ---You just asked me what - about general content.

No, I didn't. I said you've talked about the general subject matter of him gambling at the ISC conference in Las Vegas haven't you?---I don't recall that, no.

And you've talked about the fact that he needed to say to the Commission that Mr Diekman had taken some chips at a casino in Las Vegas?---Sorry, what was t he first part of that, sorry.

He had said to you that he would say or was going to say or had said at this Commission that Mr Diekman had taken some chips, gambling chips at a casino in Las Vegas. Do you remember him saying that to you?---I don't remember him saying that, no.

And you say you've never spoken to him about that subject, is that right?---I don't believe so.

10 Is it the case that your evidence yesterday or - - -

THE COMMISSIONER: On the last occasion.

MR STRICKLAND: On the last occasion about you seeing Charlie Diekman help himself to high value chips and hearing Mr Diekman say I will fix you up later, that wasn't true was it?---No, I'll stand by that.

20 How long were you at the table for when you observed that?---Coming and going on that particular occasion, I don't, I could have been there for 10 minutes, it could have been 20 minutes.

How long, how long was Mr Paul there at the table for?---They were at that table before I went there and they were at that table after I left there.

And by they you mean?--- It was Daniel Paul, Charlie Diekman was there, there was, there was, I think it was a six seat table and every seat was full.

30 And do you say you saw Mr – you call him Mr Diekman do you?---Oh, however you say it, sorry.

You say Mr Diekman was also gambling at the same table. Is that right?---I believe so, yeah.

Did you see him gamble at the same table?---He was sitting at it.

40 But did you see him actually gamble at that table? That is putting chips on to a, on to a number or whatever you do with the chips?---I think I recall seeing him do it the first time I walked past, yeah, but I don't recall seeing him doing it again after that.

Okay. Yes, thank you, Commissioner.

THE COMMISSIONER: Yes. Does anyone wish to question Mr Hingerty? Yes, Mr Naylor.

MR NAYLOR: Commissioner, I have no questions of this witness, but may I just formally record my objection again to Exhibits 233, 234, 235 and 236 (not transcribable) questions.

THE COMMISSIONER: On what ground? Pardon? On what grounds?

MR NAYLOR: On the grounds that the questions and the exhibits are beyond the general scope of the purpose of this inquiry.

THE COMMISSIONER: That's noted.

MR NAYLOR: Thank you, Commissioner.

10

THE COMMISSIONER: Anything else? Yes, you're excused Mr Hingerty?---Thank you.

THE WITNESS EXCUSED

[12.27pm]

MR HALSTEAD: May I be excused, Commissioner?

20

THE COMMISSIONER: Yes, certainly.

MS FURNESS: Commissioner, might I also be excused?

THE COMMISSIONER: Yes, certainly. Mr Strickland.

MR STRICKLAND: Excuse me, I call Mr Robert Agnew. He's a very short witness and if we can accommodate him now that would be convenient. Short in length of time I mean.

30

THE COMMISSIONER: Is it Mr Agnew.

MR AGNEW: Agnew, A-g-n-e-w.

THE COMMISSIONER: Mr Agnew, you're not legally represented?

MR AGNEW: No, I'm not.

THE COMMISSIONER: No. Have you been here before at this inquiry or this the first time that you have been?

40

MR AGNEW: This is the first time, yeah.

THE COMMISSIONER: All right. Now I have to explain something to you Mr Agnew, if you wouldn't mind listening carefully. As a witness appearing before the Commission you are required to answer all relevant questions and produce any document which you are requested to produce. And you must do this even if your answer or the production may incriminate you. But if you object to answering the questions, the evidence you give

cannot be used against you in any criminal or civil or disciplinary proceedings. I can make an order if you wish to the effect that all your evidence is to be regarded as having been given on objection and then that affords you the protection I have mentioned. It does not extend to false evidence. Any witness giving false evidence at the public inquiry if prosecuted and convicted is liable to a penalty of not more than five years imprisonment. Now do you understand what I have said?

MR AGNEW: I did, yeah.

10

THE COMMISSIONER: Do you wish me to make an order giving you that protection or not?

MR AGNEW: Yes, I do.

20

THE COMMISSIONER: Yes. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Agnew and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document produced.

30

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR AGNEW AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.

THE COMMISSIONER: Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR AGNEW: Under oath is fine.

40

THE COMMISSIONER: Swear Mr Agnew in, please.

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Could the witness please be shown Exhibit 167. Now if I can get you to speak loudly and clearly so you can be, everyone can hear you and everything you say can be recorded. What's your full name?

---Robert, sorry, Robert John Agnew.

10

And what's your occupation?---I manage my own business, tradesperson in access control, boom gates, that sort of thing.

And you are the owner of Eco Traffic Solutions?---That's correct.

Eco Traffic being two words?---That's correct.

And you've made this statement dated 26 June 2012, is that correct?

---That's correct.

20

Just want to take you to one part of it please, paragraph 21. I'll take you to the second sentence in that paragraph further, "At no stage was I ever told that I was to use Kings for any portion of the work of which I was quoting for." Do you see that?---Yes, I do.

And that, and you're talking about there the quotation that Eco Traffic sent in relation to the Gosford car park?---Yes.

30

Is there anything you want to say about that sentence?---Yeah, actually it's a little - it's not quite right. I understood that Kings would be used to do the access control what I didn't understand was that I would, they would under my responsibility that there'd be - I would be in charge of or employing their services and then obviously having to pay them et cetera, et cetera, I thought they were going to be separate to my part of the, the project.

THE COMMISSIONER: You thought you were going to be the principal contract. You didn't realise that you were going to be - - -?---That's correct.

40

- - - the principal contractor and they were going to sub contract to you?--- That is correct, that's what I didn't understand.

MR STRICKLAND: Did anyone advise you, did Mr Huskic or anyone else advise you that if you won the job, if Eco Traffic won the job then you would be required to employ Kings or to contract with Kings as sub contractor?---I didn't understand that I would be responsible for contracting their services, I understood that they would be taking that part of the, the, the project, the access control.

So it'd be two separate, two separate matters, is that right?---Yes, yeah.
THE COMMISSIONER: They would be principal contractors as well,
that's what you understood?---Yeah, exactly.

For, for the work they were to do?---That's correct. 'Cause I, I had no
understanding of what they actually had to do.

MR STRICKLAND: Thank you. Now if I can just take you to page 596 of
this, of your statement, please. And it's quote number 14?---Yes.

10

Is that a quote that you have at some stage submitted to the Royal North
Shore Hospital?---Yes.

And did you submit it on or near the date of that quote, that is 28 May
2008?---Yes, that's correct.

And if you check your records, well you see that the quote number is 14?
---Yes.

20

Can you just briefly explain to the Commission how your, number your
quotes and how you gate your quotes?---My business only started in that
year in March so that's - - -

March 2008?---March 2008 and so that quote number 14 is the 14th quote I
did after commencing business.

30

And you've checked your records that that is true?---I've checked my
records, I have diary notes to show that I was on the hospital side of
Gosford to have initial talks on what was required and there's subsequent
notes after that.

Okay. I'll just - you got a copy of your diary there do you?---I do.

I, I tender a copy of Mr Agnew's diary entry from May to - relevant dates in
May 2008. May, July 2008.

Did you actually win that job?---No.

40

THE COMMISSIONER: Just a moment, please, Mr Strickland.

MR STRICKLAND: I'm sorry, Mr Commissioner.

THE COMMISSIONER: A copy of extracts from Mr Agnew's diary for
the months May to, is it to June is it?

MR STRICKLAND: July.

THE COMMISSIONER: May to July 2008 is Exhibit 238. Thank you.

#EXHIBIT 238 - EXTRACTS FROM MR AGNEW'S DIARY FOR YEAR 2008

MR STRICKLAND: Sorry. Now this quotation, that is quote 14 was submitted to the Area Health Service together with the, with other quotes that you submitted which begin on page 591, do you see that? Just go to page 591 through to 594. You can see some quotations which is quote 2203
10 - - -?---Yeah.

- - - which you submitted in January 2010, is that correct?---That's correct.

Did you ever authorise or permit quote 14 to be submitted together with quote 2203?---No, I didn't.

Was it a surprise to you to learn that in fact those two quotes were submitted, I'm sorry, was it a surprise to you to learn that quote 14 was in fact submitted together with quote 2203?---Yes, it was.
20

Thank you. Just go please to page 594. There is a note, a handwritten note on that page but you're not the author of it, Mr Huskic is, it states "The additional quote 48821" and if you turn over the page you'll see a quick Kings quote, 48821?---Yes.

"In the sum of 12,320 from Kings Security to be added to this quote for access control component." Were you ever told that that was the case, that your, that a Kings quote would be added to your quote to make a total quote for your bid?---Not that I understood, no.
30

You were never told that?---No, I wasn't told that.

And you never gave permission for that?---No, I didn't.

Yes, they're my questions, thanks.

THE COMMISSIONER: Does any person wish to question Mr Agnew? Mr Lorkin? Yes, thank you, Mr Agnew, you are excused?---Thank you.
40

THE COMMISSIONER: Is Ms Hughes here?

MR STRICKLAND: I see Ms Hughes.

THE COMMISSIONER: Pardon?

MR STRICKLAND: I see Ms Hughes, yes.

THE COMMISSIONER: She has had notice of Mr Agnew's presence here today.

MS HUGHES: No, I (not transcribable) Commissioner. I was told he was going to, I received an email last night but I was unaware what time he was coming (not transcribable)

THE COMMISSIONER: You've asked no questions.

10 MS HUGHES: It's difficult without being able to speak to my client first and he's not here today and on that note I know that he also hasn't been excused from his summons and I (not transcribable)

THE COMMISSIONER: Yes, well, I mean, he's not required, he's not required to come back but you're representing him. Anyway, that's a matter for you. I just wanted to make sure that you were aware that, that you were aware of his testimony.

20 MS HUGHES: I wasn't, Commissioner, and there is one, if he could, if he hasn't been there is one issue I would like to raise.

THE COMMISSIONER: I beg your pardon?

MS HUGHES: There is an issue that I would like to raise with him if he could be called back.

THE COMMISSIONER: Well, I wish you would have raised - I wish you would have told me that while he was here.

30 MS HUGHES: I apologise, Commissioner.

THE COMMISSIONER: Mr Agnew, do you mind being here tomorrow morning at 10 o'clock? You may be asked some questions, you may not be.

MR AGNEW: Obviously if I have to I have to but I've got a business to run and - - -

THE COMMISSIONER: No, I understand. I can offer you tomorrow morning or tomorrow afternoon?

40

MR AGNEW: Tomorrow afternoon would be better.

THE COMMISSIONER: 2.00pm.

MR AGNEW: Yes.

THE COMMISSIONER: Yes, very well. Thank you very much.

MR STRICKLAND: Perhaps Mr Agnew, Ms Hughes can communicate with either my solicitor or Ms Lonergan.

THE COMMISSIONER: Yes, yes.

MR STRICKLAND: If he's not required then, then we can - - -

THE COMMISSIONER: Ms Hughes, if you don't wish to question Mr - - -

10 MS HUGHES: I will, I'll obtain some instructions this evening and I'll let the Commission know.

THE COMMISSIONER: Let the Commission so we can tell Mr Agnew if he's not required.

MS HUGHES: I will, Commissioner.

20 THE COMMISSIONER: Mr Agnew, if you speak to Mr Vasani, he's listed for the Commission, give him your contact details. If the legal representatives of Mr Diekmann, I beg your pardon, of Mr Huskic don't require you we'll let you know and then you don't have to come.

THE WITNESS STOOD DOWN

[12.40pm]

THE COMMISSIONER: Yes, Mr Strickland.

30 MR STRICKLAND: Yes, I call Anne Tregeagle.

MR SMITH: Commissioner, I seek leave to represent Ms Tregeagle.

THE COMMISSIONER: Yes, you have leave.

MR SMITH: And might she also have the direction of the section 38?

40 THE COMMISSIONER: Yes, please be seated Ms Tregeagle. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms Tregeagle and all documents produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for her to make objection in respect of any particular answer given or document produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT
ALL ANSWERS GIVEN BY MS TREGEAGLE AND ALL**

DOCUMENTS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.

10 THE COMMISSIONER: Ms Tregeagle, I've explained the basic effect of that order before when you gave evidence at a compulsory examination.

MS TREGAEGLE: Yes.

THE COMMISSIONER: You understand what it means?

MS TREGAEGLE: Yes, I do Commissioner.

20 THE COMMISSIONER: Yes, thank you. Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MS TREGAEGLE: Affirmation, please.

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Ms Treggagle, if I could ask you to speak slowly, clearly, loudly because everything you say is being transcribed and people at the back of the room need to hear you?---Yes.

10 What's your full name?---Anne Irene Treggagle.

And what's your occupation?---I'm currently not employed.

As at 2009 what was your occupation?---I was working as a project manager for the Art Gallery of New South Wales.

And how long had you been in that role in 2009?---Around 16 years.

20 As at that time what was your experience in terms of dealing with tenders?
---I managed a range of tenders previously, both government and, well different levels of government, yes.

Can you give an approximate number as at 2009 about how many tenders you had managed or you had been involved in?---By tender you mean public tenders as opposed to quotations?

I mean, I mean public tenders or, or closed tenders?---Or closed - - -

30 Where there's a tender process?--- - - - limited tender, where there's a tender process. Probably about 30 or 40.

Thank you?---Yeah.

Now in relation to the Art Gallery security upgrade project, that's the project that was suggested in mid-2008. Correct? Or recommended in mid-2008 approximately?---By recommend do you mean approved for funding?

That's right approved for funding?---Yes, yes.

40 Your role was to manage/coordinate that project. Is that right?---Yes.

And can you just briefly explain what you understood that management/coordination role to involve?---To oversee the process of defining the project, preparing a brief, procuring a contractor and rolling out the project to completion.

You had a hand in – I'll withdraw that. You were involved in selecting Mr Daniel Paul as a security consultant. Is that right?---Yes, I was.

And why did you – why did the Art Gallery hire a security consultant in the private sector?---Because nobody at the Art Gallery including myself had technical expertise sufficient for the process of writing a technical brief and assessing technical tenders and reviewing the delivery of the project. It's quite a complex technical project.

10 So when Mr Daniel Paul was retained what did you, what did you expect his role to be?---He had a range of responsibilities relating to preparing the technical brief, providing substantial assistance in the review of the, the tenders when they were received, assessing the technical side of the, the tenders in particular and reviewing on a regular basis the delivery of the, the scope of work to ensure that it was meeting the specifications.

Excuse me for one moment. Excuse me, Commissioner. I'll come back to it.

You had a role in the specifications, is that correct?---I - - -

20 That was, that was sent to all the integrators?---Yes. The tender document included the technical specifications, it included the tendering conditions and the contract conditions. I vetted what Daniel Paul prepared and added in additional clauses to the tendering conditions, I added in the actual contract conditions which were the ones that had been used and approved within the Art Gallery and I worked with Daniel Paul to edit the structure of the document to make it more, more easily understandable.

30 Okay. So when the specifications were completed was it your understanding that the Lenel Verint system, the security systems were to be used as a benchmark but that equivalent or superior products could be put forward, is that right?---That's right.

Was it your understanding that each of the companies submitting for the tender would bid on the same system allowing a comparison to be made between each of those tenderers in relation to price?---We were expecting them to bid on the Lenel Verint system that was used as the benchmark as well as if they wanted alternative systems.

40 And is one of the reasons for that apart from - well I assume there'd be a number of reasons, one of them was you were advised by Mr Paul that the Lenel Verint system would fulfil the requirements of the Art Gallery?---Correct.

And the second reason was that by having each of the companies submit their primary tender on the one system you could actually make a valid comparison between them in relation to price and other matters?---Yes, that's, that was one of the other reasons.

THE COMMISSIONER: And what would happen if they - if one tendered on Pelco and another instead of tendering on the Lenel Verint. Could you, how were you going to make the comparison then?---Well we would have looked into the appropriateness of the alternative equipment to ensure that it had the same capabilities as Lenel Verint and - - -

And who in the - you had an evaluation panel didn't you?---Yes, we did.

10 So who in the panel had the expertise to, to understand whether the different system that is a system different to Lenel could perform the same functions you wanted the Lenel to perform?---That was Mr Paul.

Was he the only one?---Yes.

MR STRICKLAND: Now what instructions if any did you give Daniel Paul in relation to his dealings, his communications with integrators?---I made it very clear that all communication should be taken on board and vetted by myself and the head of security if necessary and that then response to by communication I'm talking about queries, any queries received we
20 should be vetted and an approved or agreed answer established and then that answer provided through the correct channels to all tenderers equally at the same time.

Now, you say that you communicated that to him, is that correct?---Yes.

On one occasion or more than one occasion?---More than one occasion.

THE COMMISSIONER: How did you communicate it?---We, verbally. We talked about it, yeah.
30

MR STRICKLAND: At what stage did you first advise him that that is the way you wish to operate?---Prior to the tender opening.

And was it said again during the tender process?---Absolutely, yes.

By you?---By myself.

40 Did Mr Paul have any response to that instruction?---He agreed that he should follow that, that process.

And what was the reason that you instructed him in that way?---Because it was important that the tenderers, each tenderer received the same information and at the same time, you know, as practicable all at the same time so that they all had equal opportunity to, to the information.

And was the ultimate reason for that to ensure a fair tender process, is that right?---Yes, exactly, exactly.

Now, I wonder if the witness could be shown Exhibit 2, tab 4. Now, this is a, this is the tender response from Kings which was submitted at the close of tender on 23 February, 2009. Did you as the project manager read all of the tender responses of all the integrators who had submitted a tender?---Not, not in full I didn't, no. We, yeah.

You were, you were going to say you relied on - - -?---Relied on Mr Paul to do a review of the technical responses that we'd received and to give us a summary of his findings.

10

Were you aware in broad terms as at the time after the tenders closed that Kings had submitted a quote for the Lenel Verint system, is that correct? ---That they had - - -

Yes?--- - - - at the time of the tender?

I'll repeat the question?---Yes, that's correct. I was aware of that.

20

And do you know that they submitted an alternate quote based upon Pelco? ---Yes.

Now, if you go to page 721 of this document it's Exhibit 2, tab 4. I'll take you to page 720 and 721. At 721 you can see there are some logos for Endura and Lenel, do you see that, and then it's got Level Pelco Endura solution, do you see that?---Yes.

30

We're on page 721?---Yes, oh, 721 I beg your pardon, sorry. I went to 720, just bear with me. Lenel Endura logos, yes and the, and the heading Lenel Pelco Endura solution.

And about the sixth or seventh line down at page 721 this document states, "The Pelco Endura option for the Art Gallery of New South Wales tender is based upon the Pelco Endura version 2 and the following are some of the added benefits of the Pelco Endura solution." Do you recall if you read that page of this document before you commenced the interviews of the three selected tenderers?---No, I don't.

40

MR STRICKLAND: Did you have an understanding that the alternative bid for Kings was based on Pelco Endura version 2?---No, I didn't.

Thank you. Just before I get to the first meeting, I'm sorry the first interview round you had this tender was a select tender wasn't it?---Correct.

That is certain companies were selected to tender?---That were invited to tender.

They were invited to tender?---Yes.

And whose idea was it to have that process?---That was a recommendation from Mr Paul that the Art Gallery accepted.

And why did you accept it?---He had a fairly well developed rationale that involved, well that covered a concern of the Art Gallery that, firstly that the – an open tender would compromise the, the security of the system and secondly that as Lenel in particular was a very central part of the integration of the system and that Lenel was seen to be the product that best satisfied the technical requirements that were in the specification or that the Art Gallery wanted, that Lenel would be used as a benchmark and on that basis he recommended that only Lenel accredited contractors be invited to tender.

And you accepted that recommendation?---We accepted that rationale or that recommendation.

And to this day you don't, you still believe that was a sensible rationale. Is that right?---Yes.

20 Okay. And is it the case that Mr Paul selected the companies that ultimately tendered for the project?---Mr Paul put forward a list and - - -

You might just want to go back a little bit from the microphone?---Yes.

MR LLOYD: Just let her answer.

MR STRICKLAND: No, I'm asking her to step, her head go a little back from the microphone so it doesn't muffle that's all?---Oh sorry. I was trying to be clear.

30 THE COMMISSIONER: Ms Tregagle, that's not an amplifier, it's just a recorder?---Oh, that's not the microphone.

It's not a microphone that amplifies your voice?---Yes.

I'm afraid you just have to rely on your - - -?---I have to speak louder.

- - - natural ability to, to make yourself heard?---Okay. Okay. My apologies. Would you mind repeating the question?

40 Yes. Did Mr Paul select the company that ultimately appeared that ultimately tendered for the project?---I - the Art, the Art Gallery took responsibility for the final selection on Mr Paul's recommendations. The list of companies that he put forward were as, as he explained to us a list that he received from the Lenel company as being the list of companies that in the Sydney area were the accredited to, to install Lenel. A couple of companies were removed from the list because they were not actively undertaking the integration role or they were just literally too small to, to do

a project of this size. So three companies were, were crossed off the list but the rest of the list was invited to tender.

Okay. Now at the conclusion of the - at the, at the closing date for the tender which was 23 February - - -?---Yeah.

- - - a tender box was opened, is that right?---Correct.

10 And is it the case then that there was a process of ranking the tendering companies on the basis of various criteria that the Tender Evaluation Committee had specified?---Yes, that's right. The criteria was in the tender brief and there was a process of ranking them that was - would you like me to talk about that a little further?

Just, I'll show you a document but would that be a convenient time?

THE COMMISSIONER: Yes. The Commission will now 'til 2.00pm.

20 **LUNCHEON ADJOURNMENT**

[1.00pm]