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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

Reference: Operation E09/350

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY, 31 JULY, 2012

AT 10.11AM

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 Paul, you're still under the oath that you took yesterday and the section 38 order continues to apply to you?---Yes.

<DANIEL PAUL, on former oath

[10.11am]

SECTION 38 ORDER CONTINUES TO APPLY

10

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: You are, Mr Commissioner, I think if we could just deal briefly with the suppression matters. Ms Lonergan will quickly deal with that.

THE COMMISSIONER: Yes.

20

MS LONERGAN: Yes, Commissioner - - -

THE COMMISSIONER: Yes, Ms Lonergan.

MS LONERGAN: - - - I've been liaising with Mr Smith who represents the Art Gallery. We have an agreed schedule of suppression orders relating to Exhibit 17 and 23.

THE COMMISSIONER: Yes.

30

MS LONERGAN: If I could hand that up to be marked for identification - - -

THE COMMISSIONER: Yes.

MS LONERGAN: - - - rather than take up the courts time dealing with them one by one.

THE COMMISSIONER: Yes. Thank you.

40

MS LONERGAN: If we could deal with that after, after this morning's evidence.

THE COMMISSIONER: Yes, I'll do it now. The documents described in the letter from Freehills to the Commission on 31 July, 2012 will be subject to a suppression order. That letter will be marked MFI 7.

#MFI 7 - DOCUMENTS DESCRIBED IN THE LETTER FROM FREEHILLS TO THE COMMISSIONER

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Mr Paul, has Kings paid you any other money for work you did for Area Health Service, an Area Health Service apart from the invoice I showed you yesterday?---Yes.

10 And what was that?---It was for the actual lock audit in I think, I think it was 2004.

All right. And how much did they pay you for that?---I don't recall.

All right. So you've been, you've been paid twice for that – was that a separate matter?---Yes.

So you did a lock audit in 2004?---I did a lock audit on behalf of Area Health in which they asked me to invoice Kings.

20 Okay. And do you know, when you say they do you remember who it was who asked you to invoice Kings?---Yeah, Risto Haataja.

I beg your pardon?---Risto Haataja.

Okay. And did you invoice Kings for that?---Yes.

And for how much?---You asked me that a minute ago, I don't recall the amount.

30 Did you, did you find that report that I asked you about yesterday?---Yes, yes I did.

And do you have it here?---Yes, I do.

Would you mind producing that to the Commission?---Sure.

Thank you. Could that be produced to the Commission, does that need to be done formally or - - -

40 THE COMMISSIONER: Well yes, I think we should have copies made.

MR STRICKLAND: Thank you. I'll just have a very quick look. I'll go on to something else Mr Commissioner and if copies could be made. So could the witness please have Exhibit R1.

THE COMMISSIONER: Exhibit 2, R1 in Exhibit 2.

MR STRICKLAND: Exhibit 2, R1, I will, I think by the end of the hearing I'll have got that right. I'll come back to that, Mr Paul, after I've had a chance to look at this document?---Ah hmm.

Can I just ask you, if I can get back to the gambling money that I was asking you about yesterday, you've given some evidence that on some occasions the gambling money was used in relation for example to pay for Harvey Norman products, so that was correct?---(No Audible Reply)

10 I think on one occasion you said you actually, you just spent it, is that right?
---Oh, I don't recall what I did with the, with the cash, with the cash you were talking about?

That's right?---I don't recall what I did with that, obviously spent it in some way, shape or form, yeah, or bet it again.

Did you ever bank it, that is put, put the gambling money you were given by Mr Diekman and by gambling money I'm talking about the cash or the cash cheques? Did you ever actually deposit them in a, in a bank account?---No,
20 they, the cheques only ever went to Amex or, or Harvey Norman as expenditure, right, for whatever it was they were paid for, like the - - -

Okay?---But the cash, no, no.

The cash no?---I never, I never, I never banked any cash, no.

Okay. So just so I might understand - - -?---Not that I recall anyway, no.

The gambling money, the cash or cash cheques, they were either, they either
30 went into your Amex account, is that correct?---To pay something off, yeah.

To pay something off?---Yes.

Or, or you kept it (spent it), is that correct?---Not the cheques, I didn't - - -

Okay, I'll go through it again. There may have been some lack of clarity. In relation to the - well, let's talk about the cash first, the physical cash?
---Yeah.

40 We'll separate that from the cheque. You didn't bank that money, you kept it and at some point spent it. Is that correct?---That's what I recall. Look, I may have banked some somewhere along the line but I don't recall. I don't, I don't, I don't ever recall what I did with it actually so it may have been banked, a couple of grand or whatever but I typically wouldn't have, I typically would have spent it.

Okay. And if you may have banked it you'd have banked it in what, your, your personal bank account or your joint account?---Typically, yes.

In which account?---Well, I don't know 'cause I don't know whether I banked it but if I, if I had of I probably would have banked it in my, my account or, or a joint account with my wife.

All right. Okay. And in relation to the cheques, they, what did you do with the cheques, the cash cheques?---Two of them, two of them were put onto Harvey Norman.

10 Yeah?---The Maurice Ciot ones were put onto, to American Express and the other two were put onto American Express.

Okay. When you say put onto they were, they were - can you explain what you mean by put onto?---Oh, I have a, I have a charge card with American Express. It's not a credit card, it's a charge card.

20 Yes?---So when I spend or when I book things, airfares and the like, I put it on my American Express card and at the end of the month I have to pay that off or some time thereafter have to pay that off and so typically if there was a cash cheque or a, or a Amex cheque made out then I'll put it on Amex to pay that debt off.

So in other words you take into your bank?---No.

What do you mean by - I want you to explain what you physically do with the cheque, do you understand?---Oh, I physically give it to my wife.

30 Right. And then what does she physically do with it?---So she then physically then takes it and goes to American Express and would, would, would give it to them - - -

Right?--- - - - against, against the charge card to pay off the American Express card.

And then American Express credits that amount on the cheque - - -?
---That's right.

- - - to your charge account?---Yes.

40 Okay. Now, did you ever give Charlie Diekman cash or cash cheques in relation to gambling debts?---I never gave him cash cheques ever. I've given him cash, yes.

All right. And about how much?---A thousand, in, in thousand or \$2,000 lots typically because that was the average type of bet that we had, sometimes \$5,000 but very rarely.

And about, what would be the total amount of cash that you've given Charlie Diekman?---No idea.

Okay. When was the last time you gave him cash for a gambling debt?
---I don't recall when, when the last time was.

Well, do you know what he did with the money that you gave him?
---Wouldn't have a clue.

10 And you've got no idea whether you have given him over time a total of 5,000 or 10 or 50 or 100, you couldn't, you couldn't help us?---It wouldn't, it certainly wouldn't be 100, it would be, it would be less than 50 I would think. Somewhere between- - -

THE COMMISSIONER: The payment of the false invoice that you arranged with Charlie Diekman, that I understood was by cheque, wasn't it?
---That was from them to me?

20 Yes?---I have no idea how that came in, whether that was a direct transfer or a cheque. It was in 2007.

MR STRICKLAND: There's some records about that, Mr Commissioner. Can I just say I think you said less than 50 and then I think you were about to say something else?---Yeah, it would have been, would have been less than 50.

Can you say how much less than 50?---No, I don't know.

30 Now, did you ever assist Kings in them winning government or public authority contracts?---No.

Did you ever use your influence as a consultant to assist Kings or to influence your clients to award contracts to Kings?---No.

Did you ever instruct or advise or assist Kings employees about how to prepare tenders?---Not on how, how to, how to prepare tenders, now.

40 What about in relation to, did you instruct, advise or assist them about the tender process?---No. Not prior to a tender anyway. I've, I've given them debriefs.

You mean debriefs after the tender?---After a tender, yes.

All right. And what was the form of the debriefs?---The form of the debrief is a meeting, a formal request or typically a formal request by a contractor to the client and the client will instruct me to go and give them a debrief on, on where they, where they went well, where they went poorly and how they can improve.

Did you ever assist or advise them, and I'm talking about them being Kings employees, about the tender process from the perspective of those who evaluate the tenders, you know, what they look for in tenders and- - -?
---Post, post a tender, yes.

But only- - -?---In a debrief, as part of a debrief, what we look for, how we assess, yes.

10 But apart from the debriefing context you don't do, you didn't do that. Is that right?---I didn't do that, no. You'll see, I think you presented an email once before in this, in this forum- - -

Yes---?- - -where we were planning on it or where they'd asked for it and where I'd agreed to it, but that never took place.

I'll show you that. Could the witness please be given Exhibit D, Exhibit 1, D44. Is that the email you just referred to?---Yes.

20 Do you have a copy of that, Mr Commissioner?

THE COMMISSIONER: Yes.

MR STRICKLAND: And can I ask you, the email from Mr Roche to you, does that accurately reflect the conversation you had with him about what evaluators look for in tenders and how they're weighed, the do's and don'ts, presentation, et cetera, does that, does that accurately reflect a conversation you had with Mr Roche?---(No Audible Reply)

30 The first paragraph of his email to you?---Yeah, I'd say so, yeah.

Now he asked you if you would meet with his sales team in the future to discuss those matters and your response was you would do so with pleasure?---Yeah.

And irrespective of whether the meeting took place you agreed to assist Kings employees about looking at a tender from the point of view of the Tender Evaluation Committee. Correct?---For improving tender submissions for any of the clients, yeah. I would to anybody who asked,
40 absolutely.

So do you say that you have never, have you never done that, that is assist Kings in the way proposed in this email apart from a post - - -?---I've only, I've only - - -

Hold on I've got to finish the question. If I'm a bit slow, just wait for me?
---No worries.

You've never assisted Kings in that way apart from a debriefing after a tender was closed?---Sorry, can you repeat that question?

10 Yes, sure. The only time you've ever assisted Kings in terms of looking for what evaluators look for or assisting them in a tender process was in a debriefing session at the conclusion of the tender process?---I've also assisted on behalf of the client throughout a project, so an example might be The Gap project. We would be on The Gap project, they've won The Gap project and they're in the middle of it and they'll ask questions like you know, how should, how should we present this for our end document, our end as (not transcribable) and that type of thing, as (not transcribable) the user manuals and that sort of stuff. And I give them a lot of coaching there because it's to the clients benefit.

And that's during the tender process?---No, no, no, no, not at all.

THE COMMISSIONER: No, after they've won - - -

20 MR STRICKLAND: After, after they've won?---When they're in the middle of an installation or toward the end of installation.

Well that's, sorry, that's what I'm asking. Did you ever assist Kings before they had been awarded a contract, a contract?---To win, to win a contract that I was on?

Well did you ever assist Kings in the tender process before they were awarded a contract? Do you understand the question?---On a project that I was involved on?

30 Yes?---No.

What about on a project that you weren't involved in?---I may have. I don't recall.

Okay?---I don't recall the detail of.

Do you agree that you had a, a special relationship with Kings, a special closeness with Kings?---No more than some other companies.

40 Well that's why I used the word special. Do you agree that - - -?---What do you mean by special?

Well - - -

THE COMMISSIONER: Unique.

MR STRICKLAND: Sorry?

THE COMMISSIONER: Unique.

MR STRICKLAND: I was going to say unique or particularly close?---As opposed to?

Not unique?---As opposed to other companies?

10 Yes, as opposed to other companies?---No. I had, I had a good relationship with them but not as opposed to other companies, no. There's some other companies that I have the same or similar relationships with.

And which ones were they?---Orion was one, MJH is another one.

That's Mr Hingerty?---Yeah. I used to have a fairly good relationship with AFN, SECOM, I've got a relationship with some guys in Chubb, a relationship with some, some people I used to work with at ADT, Diebold, there's a wide range. I've been in the industry for a long time.

20 When you were a security consultant – you've been a security consultant to a number of different clients. I'm talking about public authorities, government authorities. Do you understand?---(No Audible Reply)

And there are quite a few occasions when there was a select tender process. Is that true?---Yeah, sure.

And you had a role in selecting who would bid for those contracts didn't you?---If the client asked me to, yes.

30 And in those cases is it true that you often selected companies that you were close to?---Not close to, I wouldn't put it that way. I select companies, always select companies that I have a faith in that can do the job for my client. The clients are the key focus of my, my, my work. All right. So if, if I was doing a job for you for your home, you wouldn't expect me to choose out of a phone book five companies. You'd say to me who do you know, who can we trust that can do the job. And that's how I choose.

40 But do you agree with this, that part of your modus operandi as a consultant, as a successful consultant, was you developed personal relationships with individuals in various companies?---No.

You don't agree with that?---No. I don't, with, with wholesalers and the like maybe but not, not with integrators. The friendships I had with integrators is long-standing, it's because I've been in the industry for so long.

So for what, whatever, whether it was long-standing or not the fact is you, you had close personal relationships with integrators and suppliers, didn't you?---Of course.

I mean, you socialised with them?---Of course.

Had lunches with them?---Yeah.

Dinners?---Yeah.

Went out to football matches?---Sure.

10 Or social occasions?---Yes.

And what I want to suggest is in relation to the government contracts where you were the security consultant you invited, your practice was to invite companies where you had a close personal relationship with a, with a principal - - -?---Not at all. I just, I just explained that.

Now, Mr Paul, you just have to let me finish my question - - -?---Sure.

20 - - - because otherwise I, it just takes time. Okay. So what I'm suggesting, I'll repeat it now. What I'm suggesting is is that you invited companies where you had a close personal relationship, where you had a close personal relationship with those companies, a close personal relationship with the principal or a principal of those companies. Would you agree with that? ---Not on every occasion, no.

I'm not suggesting every single company you invited fell into that category but, but many of the companies you invited to participate in a tender you had a close personal relationship with one of their principals?---No, not necessarily, I disagree.

30 Okay. Now, with Mr Diekman it's true, isn't it, that you often spoke to him about particular technologies, the latest technologies that were coming up in the security industry. Is that correct?---Him and many others in the industry, yes.

Well, I'm just now focussing on him?---Sure.

40 Do you remember Mr Diekman gave evidence at this hearing where he said, and this is at page 200 of this transcript, that you and he were always speaking about the latest technology, about technology, do you agree with that?---Yes.

Both of you had a particular interest in that matter?---Of course.

And you say of course because that was the bread and butter of your industry?---That's what, that's what I do as a consultant.

Yeah, being up to date with the most recent technologies coming onto the market?---That's right.

Now, I just want to get back to the evidence you gave yesterday about the \$80,000 bet, the gambling debt. Could I just show you an email or an email chain. Now you read these from back to front but I'm giving you the whole chain for context but I really only wanted to ask you about the emails that begin on the second page.

10 THE COMMISSIONER: The second page from the front?

MR STRICKLAND: The second page from the front. So that's an email from yourself, David McMicking and other including Charlie Diekman where you say, "Meanwhile I just keep laughing about being fleeced and oh, yes, Tim still owes me \$500." That's Tim Maas, is that right?---That's correct.

20 And, "Ha, I'm taking bets whether I ever see that \$500 again, anyone up for a little wager?" And then you've got, "Oh, then I remember the \$60,000 still owed by Mr Diekman, the pool king. Any sign of that payment or do I put it down to folklore like Tim Maas \$500. What's the odds of being paid?" Now, those, the people you sent that email to, they were the people, at least some of the people that went with you to that Las Vegas 2010 trip. Is that right?---That would be correct, yes.

So does that assist you as to the, as to when the, that pool game where you had the gambling occurred, that is it occurred in 2010?---Yes.

30 Not 2011?---I don't recall. I still don't recall but by the, by the look of this it looks like it was 2010, yes.

When you say it looks like it, it must be?---Yeah, it must have been, yeah.

'Cause you didn't do it twice, did you?---No.

You didn't have a debt in 2010 and 2011?---No.

40 And then if you go over the page, Eric Traynor, is he, is ET Security Systems, that's an integrator company?---That's correct.

And he was also on that 2010 trip?---Ah, yes, he was.

Okay. And so he says, "No chance of seeing your money", et cetera. And then the top email is Mr Diekman writes to Mr Traynor and you and others, at the end saying, "And as for the 60K, I'm good for it, double or nothing, mystery town 2011." Now, having read that chain of emails, does that suggest to you that the actual amount owed was 60,000, not 80,000?

---No, it started, well, it started at a, we were playing for hours, it went from 5,000 to 10,000 to 20,000 up to 100 and back down to 80 and I know it stopped at 80 because that's where the debt started, if you like.

But you're not suggesting that before these emails you were paid 20, were you?---I have no idea. I don't recall when the payments were made.

Because what is suggested in that email chain- -?---What's the dates?

10 - - -is that you hadn't been paid any money by Mr Diekman in relation to that pool debt until, up until 23 May, 2010. That's what that email chain suggests, doesn't it?---No, because that's only referring to 60,000, the debt was 80,000 so- - -

I know, but you've never said he's paid me 20?---No, why would I?

Well, because you say any, you say, "Any sign of that payment?"---Yeah, of the remaining payment, yeah.

20 So you're saying, are you, that he'd already paid you 20?---He may have. I don't recall. I don't recall when the payments were made.

Mr Paul, forget what may have happened. What I'm asking is, did he?
---I don't recall.

30 Did he pay you \$20,000 between, between the time of the pool game and this email?---I would need to look at the cheques and the dates on the cheques and when they were received. I don't, I don't have them in front of me so I don't, I don't recall. You have previously in, in a hearing shown those cheques and they have dates on them.

And, and were there any cheques between the date of your conference on 23 May, 2010?---I don't recall.

I tender that email chain.

THE COMMISSIONER: Yes. The email chain ending in email from Mr Diekman to Mr Traynor and others dated 23 May, 2010, will be Exhibit 26.

40

#EXHIBIT 26 - EMAIL STREAM WITH EMAIL FROM MR DIEKMAN TO MR TRAYNOR & OTHERS SENT ON 23 MAY 2010

MR STRICKLAND: The fact is that you never expected Mr Diekman to pay you money for, in the amount of 80,000 or 60,000 in relation to a gambling, in relation to a pool game that you played in Las Vegas, did

you?---It was a pool game that we had that he owed me \$80,000 on and he paid.

That's not my question?---He's paid some of it.

That's not my question. Shall I repeat?---Yes, please.

10 At the end of the pool games, the pool game when you had, and you ended up \$80,000 in front, you never expected him to pay you an amount of money in relation to those pool games, did you?---Yes, I did. Charlie's a strange guy. Sometimes he pays and sometimes he doesn't and, you know, sometimes he's, he's a jovial sort of bloke and that's, that's the way he is.

See the gambling debt was a joke between friends wasn't it?---No.

It wasn't?---No. It was, it was a, it was a game of pool.

20 I'm talking about the gambling debt it was a joke between friends wasn't it?---No. It was, it was a game of pool for money.

Well you see it wasn't a debt, it wasn't a legal obligation to pay you any money was it?---No.

No. It's not something you'd ever sue on is it?---No.

30 No. And what I want to suggest in the tone of these emails proves it, I want to suggest, indicates it is that the whole notion of the gambling debt was, was something of a joke where you could then wager whether someone would actually pay you the debt. That's what you did in that chain of emails isn't it?---Well I was having a go at Charlie for, for not paying it yet.

But you never expected him to pay?---Well I did.

THE COMMISSIONER: Well when you say, "as for the 60k I'm good for it, double or nothing. Mystery town 2011." Weren't you saying - - -?
---That wasn't me saying that.

Can I just finish?---That's Charlie saying that.

40 Well Charlie saying that, he was suggesting that there be another gambling session at some town on a Las Vegas visit in 2011. He was suggesting that wasn't he?---Something like that, yes. But he's also suggesting that he's good for it, in other words he, he will come good with the 60,000 owing, the remaining 60,000.

No, but he's saying double or nothing in 2011 and you were happy with that?---It doesn't matter to me.

MR STRICKLAND: I just want to – do you recall that you gave some evidence about this gambling debt at a private hearing in May this year?
---Yes.

And when you gave those, you gave those answers on oath or affirmation. Is that correct?---Yes.

And you were obviously telling the truth when you gave those answers?
---To the best of my recollection, yes.

10

All right. I just want to show you if I could some, the transcript, I'm just showing, to put everything in a proper context in 1457 to 1462. Just go to 14, we'll go to 1459. Oh sorry, I'll go back even earlier, go to 1458 and you were asked, this is at line 20, I'll just take you through to get you the context. Line 20, "when you go to America you play snooker and I bet." "How much, how much are we talking about?" And then you gave an answer. And then at line 38 you say, "how much, the biggest bet that we ever, that we ever had was \$100,000 and I lost two games and after that, and it went down to 80,000." Do you see that?---Yeah.

20

Now that's the same - - -?---That's the same game.

- - - we're talking about, March 2010?---Yes.

Correct?---Yes.

And if you go over the page there's more questions about that, that is you are asked where this game happened and you gave answers in relation to that. Who was there, you gave answers to that, that's at line 35. And then you were asked these questions at 1459, line 42, "How long did it take to lose the 80 or 100,000?" "I didn't, I won." Question, "No, for him to lose?" And then you said it was a few games. And then you were asked, "What was the stake for each game?" "Oh I think we started at \$10,000 on one game", and then you give, et cetera, et cetera. "Did he pay you back?" Answer, "Pardon?" "Did he pay you back?" Answer, "Yes, he did. I didn't expect him to but he did". Do you see that answer?---Ah hmm.

30

That's different from what, from the answer you gave a moment ago, isn't it?---Well, he's - - -

40

Hold on, is that answer different from the answer you gave a moment ago?
---No.

It's not?---No.

Because I asked you a moment ago whether you expected him to pay the debt and you said, "Yes, I did" but in this answer you said, "I didn't expect him to"?---Right.

But they're two different answers aren't they?---As I said, when I'm trying to explain how it went, it, it wasn't, it's not a, it's not a cut and dry thing, it was, it was never a, a bet right you owe, now you've got to pay me the next day, it's, it's a bet between friends so he eventually paid it. As I said, Charlie's a different kind of guy, sometimes he's quick, sometimes he's slow but eventually he, he'll pay it so yes, essentially I expected him to pay it. When, who knows and that's, part of that \$60,000, you know, taking bets on whether he's ever going to pay it or not, having a go at him for not
10 paying it yet and he came back and said yes, double or nothing and then the next one, I'm good for it, right. So in other words I'll, I'll pay it.

You see, when you just said in that answer just then, quote, your words, "Essentially I expected him to pay it"?---Mmm.

That is the opposite of what you have said at, in your private, in your compulsory examination when you said I didn't expect him to. That is the opposite, isn't it?---Well, putting those two words against the, those two
20 phrases against each other, yes, it's the opposite.

And I want to suggest to you that what you said in the compulsory examination was the truth and what you've said now is not the truth - - -?
---Not at all.

- - - and that - I haven't finished the question, and that is this gambling relationship you had with Mr Diekman did not involve any expectation that he would actually pay money accrued from these gambling games. Do you agree with that or not?---No.

30 And what I want to suggest to you is that the gambling, and I'm not suggesting the gambling did not occur, but that the payment for the gambling was a cover whereby Mr Diekman could pay you money under the guise of a gambling debt for favours that you have shown Kings or assistance you'd given Kings in winning large government contracts?---I've not given them assistance.

You disagree with that proposition?---Yes. Yes, I disagree with that proposition.

40 Now, you've given evidence about the money or the cheques that were given, the Amex cheques in relation to Mr Ciot and that was money for Mr Ciot and Ms Michelle Kellet, is that correct?---For his girlfriend, yes.

Ms Michelle Kellet?---(No Audible Reply)

You've got to answer?---Yes.

Now why, to your knowledge why did Kings pay you, give you the cheques to pay Ciot rather than Kings pay Ciot and Ms Kellet directly?---If you go over the transcript of yesterday, I'll explain it again for you, he was going, Charlie was going to, going to pay for - well, sorry. Maurice was going to come to Vegas and decided not to. Charlie was going to pay for him and I was going to South Africa and, and Switzerland shortly thereafter. It was Maurice's 60th birthday and Charlie decided he wanted to pay and so Charlie gave me the cheques because I did all the bookings with Amex.

- 10 Now have you ever spoken to Mr Ciot before you ever gave evidence in these hearings about those two payments?---Well, well, I don't, sorry, explain that, ask that question again?

Sure. Have you ever spoken to Mr Ciot about those two payments, that is those two cheques?---Probably not specifically about those two cheques. I, I don't recall, I may have, I don't recall.

- Well, after you were alerted to the ICAC investigation did you ever speak to Mr Ciot about the two cheques that you - - -?---I don't, I don't - - -
20 - - - were put in our Amex account and - - -?---I don't recall when I spoke to Mr Ciot about it, if I did speak to him specifically about that, I don't, I don't recall the dates.

So you don't recall ever going and speaking to him and saying look, let's have a discussion about these cheques where I paid for your trip, you, you and Michelle Kellet's trip to South Africa?---I would have gone to him, I would have spoken to him, I don't recall when.

- 30 THE COMMISSIONER: Why would you have spoken to him?---Sorry?

What would you have said when you spoke to him?---I'm a friend of his, I go to his place a lot.

That's not my question?---Then, please, ask the question again.

What would you, what would you have said to Mr Ciot about the two cheques?---When?

- 40 When you spoke to him?---When, when, when are you referring to?

After this inquiry had started?---At which point are you talking about?

After you first knew that there was an inquiry?---What, three years ago or two years ago?

When, you know when you first knew, Mr- - -?---Sorry, there's been rumours about this inquiry for four, five, 10 years.

When did you first officially hear that there was an inquiry on?
---Officially?

Yeah?---When your people contacted me.

Did you speak to Mr Ciot after that?---I don't recall when I spoke to Mr Ciot about it.

10 You don't know whether you spoke to him after that or not?---I couldn't tell you the dates I spoke to him about anything. I speak to him a lot, he's a friend of mine.

I'm not asking you about all the things you spoke about but I'm just asking you about your discussion with him concerning the two cheques?---I don't recall the dates of the, of the discussions.

20 What did you speak to him, what did you say to him in connection with the two cheques when you discussed the cheques with him, whatever the dates were?---I don't recall discussing the two cheques with him- - -

I see---?- - -as I just said to Mr Strickland.

I see?---I don't recall the conversations.

You don't recall discussing the cheques with him?---I may have but I don't recall the detail.

30 You don't recall discussing the cheques with him. Is that your evidence?
---No, I don't recall whether or- - -

You recall- - -?- - -not I have had that discussion with him.

So you do not recall having had a discussion with him about the two cheques?---I don't know whether I- - -

Is that your evidence?---No, my evidence is I don't know whether I did or not. I don't recall.

40 And if you had such a discussion with him, what would it have been about?
---I have no idea 'cause I don't recall it.

Well, I'm trying to work out what reason you would have had for talking to him about the two cheques. Can you help me on that?---Depends on when the discussion took place with him. You see he came overseas with me, right?

Well, yes?---And at that time it was paid for by Charlie. I put the cheques on my American Express card. At some stage Morris would have spoken to me about, you know, how, how do you afford all of this, Dan, right, and I would have said to him, oh, it's Charlie's contribution for your birthday.

Until then he didn't know that Charlie had paid?---No, I didn't say that.

But is that the case?---No, I don't believe so, I, I believe Charlie and he would have had a conversation but I don't, I wasn't there.

10

Yes, Mr Strickland?

MR STRICKLAND: Could the witness please be given Exhibit 25. And if you just go to tab 2 and I just want to ask you some questions about your involvement in the Taronga Park Zoo contracts?---Ah hmm.

Do you recall being involved in those?---Yes.

20

And if you go to, and have you looked at this documents in the last 24 hours?---No.

If you go to tab 2 which should have 28 on the right-hand column?
---Ah hmm.

Have you got that?---Yes.

Do you recognise that as your proposal?---Yes.

30

Your proposal to Taronga Zoo?---Yes, yep.

And if you go to tab 3, it's not a very good copy, but can you see there that there was a, the first part of the contract with the Zoo involved CCTV cameras for the elephant enclosure?---That's correct.

And Kings were awarded that contract?---Yes.

And you can see under the heading, Total Amount that the value of that contract was \$63,800 plus a contingency fee of 10,000. Is that correct?

40

THE COMMISSIONER: Is that on?--- I don't know whether there was a contingency - - -

What page is that?---Oh, there was too, yes. Yes, there was, yep.

MR STRICKLAND: Bear with me. Commissioner, that is in tab 3 and it's on page 53. It's just one page in tab 3?---Page 54.

It's on both actually, yeah, 53 and 54?---Sorry, 53 is illegible.

Well we'll do page 54 then. Do you see that Mr Commissioner?

THE COMMISSIONER: Yes, thank you.

MR STRICKLAND: Now if you then go to tab 4 please. Do you recall, so I'm just asking you things to put it in context. Do you recall that after the elephant enclosure contract that there was a proposal for another contract for upgraded security at the zoo using CCTV? Do you recall that?---Vaguely.

10

Okay. And if you just read tab 4, an email or a fax I'm sorry, from Mr Inkratas to yourself. You just read that to yourself please?---Ah hmm. Yes.

And Mr Inkratas, do you recall him as an officer at Taronga Park Zoo?---I don't recall what his position was.

Okay.

THE COMMISSIONER: He was an employee of the zoo?---I don't recall that. I don't know who, I don't know his position.

20

MR STRICKLAND: Okay. If you then go to tab 5 you'll see that's dated 11 May, 2006 on the first page, but if you go to the second page you'll see that it's actually dated 6 February, 2007?---Ah hmm.

You haven't looked at these in the last 24 hours?---No.

Okay. And if you just – do you see that you put in a proposal to – for security consultant of services in relation to that second contract?---Yes.

30

Okay. And the price of that is at page 71 which is 4,990 excluding GST? ---Yes.

THE COMMISSIONER: Sorry.

MR STRICKLAND: Page 71, about fourth last line. Do you have that? It's on tab 5 under the heading Summary of Pricing.

THE COMMISSIONER: Yes.

40

MR STRICKLAND: And then if you go please to tab 6, you can see that there were two consultants and you were one of the two, 4,990 and another consultant put in a fee for 9,550. Do you see that?---Yes.

Can I just ask you this, in the evidence that has been presented at this inquiry in relation to consultants fees your fees have always been significantly lower than your competitors. Do you agree with that in terms

of the proposals that have been tendered before this inquiry?---What you've put forward so far, yes.

Yes. Is that a strategy that you have adopted to put in a very low bid to ensure you actually get the consultancy job?---It depends on the project.

In relation to these government, these government contracts?---No. It depends on the project. It's not a carte blanche, you put in a low price, no.

10 Okay. Now you were awarded that contract, you were awarded that consultancy work?---I didn't know I was up against anyone else.

Well whether you knew that or not you did in fact get that job didn't you?
---Yeah, oh, yeah, I believe so.

THE COMMISSIONER: Okay. Now, do you recall that in relation to the second contract which is upgrading the CCTV at the Zoo, that Kings made a bid for that contract as well?---No, I don't, I don't recall the detail of that contract. From, from memory it was a very very small piece of work.

20

And if you just go please to tab 8- - -?---Ah, I know the one.

- - -does that jog your memory that there were- - -?---Yeah, it does.

- - -in fact two bids, two tenderers, one being Kings and one being Austek?
---No, there probably was more because I wouldn't typically just invite two, but it does, it jogs my memory on the project, it was the Lower Sky Safari which is the, the overhead carriage, you know, the ah, the, the skyway and so it was a couple of cameras down the bottom, it was a tiny little job.

30

Okay?---Yeah.

In any event, Kings won that job as well. Do you recall that?---They were half the price of the competitor on this thing, yeah.

Yeah. Okay?---But there would have been others invited to that. It's very unlikely that there was only two invited.

40 Okay. Well, if you go to tab 10- - -?---Yeah, it says four companies were invited- - -

Yeah---?- - -and two responded.

Okay. And if you go to page 184, while your signature's not there, it appears you have written the report that begins at tab 10 on 7 April, 2007. Do you agree with that?---It's my document but I don't know whether this was the final one, no, I don't know.

Okay. Okay. So the documents reveal that in March 2007, four, there were four tenderers, two actually put in a bid and that the tender closed on 22 March, 2007. If you just go to tab 12. Do you see that?---(No Audible Reply)

It's the email from Mr Inkratas to Mr Diekman, copy to you?---Yes.

10 Now, between the time of the bidding for the contract which is in March 2007, early March, and the actual awarding of the contract in May 2007, you went to the ISC Las Vegas conference, didn't you?---I don't recall the dates. I take your word for it that I did but I, I know I was there.

Okay. And Mr Diekman was there as well, wasn't he?---In what year was that?

2007?---I don't know whether we travelled together that year but, or travelled in that way that year, but I don't know whether he was there.

20 Could the witness please be shown D67. That should, that should be a, there should be a document attached to that, is there?

THE COMMISSIONER: There's just one page, is that page 149?

MR STRICKLAND: Just one page, is it? There should be, should be a document attached to it, it's coming.

30 I'll just show you this invoice from Teazers Rivonia. So does that email jog your memory that you went to the Las Vegas conference with Charlie Diekman, Mr Meijer from Sydney Ports, Jonathan Nguyen from Austek, Mick Hingerty from MJH Security, Maurice Ciot, does that jog your memory?---Yeah, yeah.

And at some place, at some time you went to a club called Teazers Rivonia?---Not at all.

That's a joke is it, that - - -?---Have a look at the date of the receipt.

I know, that's a joke is it?---Yes, it is a joke.

40 And, but the joke was shared amongst the people you went to the conference with?---Well, that was a joke from Charlie so you can ask Charlie that, yes.

But you understood the joke, didn't you?---Actually I didn't look at the, I, I don't recall even looking at the, the content of it but I don't know that I responded did I?

But there's no doubt having looked at that email that reminds you that you went to the Las Vegas conference with Mr Diekman and the others in 2007? ---Well, they were all there. It doesn't mean that I went there with them. I went there with, I certainly went there with Peter Shepherd. I mean, Peter Roche is on copy of this, he didn't go to Vegas.

Well, but you did go, didn't you?---Yes, I did, yeah.

10 And, and Mr Diekman was there at the time and you socialised with him at the time, didn't you?---I don't, yeah, I guess, I guess we did, yes. And so was Jonathan Nguyen who was also on that same tender.

Yeah. And did you disclose that to Taronga Zoo?---What, that both of those guys were there?

Yes, that you went on a conference with Mr Diekman and Mr Nguyen?
---No, should I have?

20 Well, I'm ask you, should you have?---Not to my knowledge. It was a trade show.

Did you disclose to anyone from the Zoo that Mr Diekman had paid you \$11,000 in January '07 in relation to a gambling debt?---Was it in January, I don't think it was January '07 for gambling then.

Have a look at, could the witness be - - -?---I think that was July wasn't it?

Could the witness please be shown Exhibit R1.

30 THE COMMISSIONER: Exhibit 2, R1.

MR STRICKLAND: Thank you. 25 January, 2007?---You're right, yeah.

THE COMMISSIONER: That's the email of that date.

MR STRICKLAND: That's right?---Yeah.

THE COMMISSIONER: From - - -

40 MR STRICKLAND: Well, and also the invoice itself?---Ah hmm.

Which I think is over the page.

THE COMMISSIONER: At page 15.

MR STRICKLAND: So did you ever disclose payment by Kings to you of \$11,000 in relation to that gambling debt?---I don't recall disclosing that, no.

Well, I suggest you did not do so?---You can suggest that but I don't recall. I may have but I don't recall doing that.

That is something you certainly should have disclosed isn't it?---Why?

Do you say you ought not to have?---Why?

10 I'm asking you - I'm afraid in this forum I get to ask questions not you?
---Well, I'm, I'm, I'm trying to get some understanding as to why, when you say you should have why should I have?

No, I'm asking, do you think you should have disclosed the payment of \$11,000 during, by Kings during a tender process where Kings was one of the tenderers?---No, because it was for a bet.

So the answer is no?---No.

20 Do you think that at the very least that may be perceived as involving a conflict of interest or potential conflict of interest on your part?---No, they - I wasn't the sole, sole decision-maker in any tender in, in, in any government tender that I've ever been involved in. I've been members of many different tender evaluation committees.

THE COMMISSIONER: You're just asked about his now, Mr Paul?
---Sure, I'm just adding a little bit of background.

MR STRICKLAND: If you go back to tab 5.

30 THE COMMISSIONER: Of?

MR STRICKLAND: Sorry of Exhibit 25, I beg your pardon. Page 68. Now although the date bears 11 May, 2006 do you agree that you in fact wrote that document on or around 6 February, 2007?---Yes.

40 And there's nowhere in that document - I'll withdraw that. In that document you specifically say that Security Consultants International is an independent consultancy with no commercial relationship with suppliers, manufacturers or systems integrators?---Correct.

But if you have a gambling relationship with a principal of a security integrator like Kings then that statement is misleading isn't it?---Not at all.

You disagree with that?---Totally disagree with that.

Because what you're portraying or conveying in that statement is that SCI is totally independent, I don't have - - -?---In decision making, absolutely.

- - - I don't have commercial or financial relationships with those who may be bidding for contracts where I'm a consultant?---Commercial or financial relationships in relation to preference because of a particular product or because of a particular – they're not paying me to, to get them on to tenders or make decisions to have them awarded tenders or anything like that, correct. That's the intent of that, that statement.

10 But you see if you have a gambling relationship with someone where they owe you money from time to time and then you select that company where you say owned by Mr Diekman, that was your perception. Correct?---Yeah.

Then that may be at least perceived to be something in your interest that you are awarding a contract to someone who owes you money from time to time. You can't see the at least - - -?---I - - -

I haven't finished the question. You can't at least see the perception of a conflict of interest in that?---I'm not awarding the contract.

20 But you're, but you have a role don't you as – one of your roles as a security consultant is to ensure that the best integrator or the best supplier gets the job?---Not gets the job, that the clients gets - - -

Gets the contract?---No. My, my job is to make sure that the client gets the best solution. Right. So I'll - - -

THE COMMISSIONER: And you advise the client?---Sorry?

You advise the client?---Client of what?

30 What's the best solution?---I advise them of, of how, I typically put together a performance based - - -

Do you advise the client of the best solution? Yes or no?---Through, through a - - -

Yes or no, do you advise the client of the best solution, yes or no? ---Through a performance based specification, yes.

40 So you can advise the client that the best solution is from an integrator whose owner owes you \$10,000 for a gambling debt without disclosing that debt?---That gambling debt has nothing to do with decision making processes at all.

But you think that that's perfectly okay for you not to disclose the existence of that gambling debt when advising the client as to what's the best solution?---The gambling debt is negligible in relation to - - -

Your answer is no, you don't - - -?--- - - -in relation to my role.

Well your answer is yes, you think it's okay not to disclose that?---It has no bearing. It has no bearing on my decision - - -

Well I'm taking - - -?--- - - - or my, my input on whether or not, whether or not a contractor gets selected to be put on a tender list.

I am, I'm taking it that you think it's perfectly proper not to disclose that?
---I didn't state that.

10

Well do you think it's perfectly proper not to disclose that?---I don't believe that it has any bearing.

Well do you mind answering the question?---I am answering the question.

No, the question is yes or no?---Yes or not to what?

Do you think it's perfectly proper not to disclose that?---Disclose what?

20

Oh you know very well Mr – don't play games with me?---Look please, take me through that, that question again.

No I won't. Mr Strickland.

MR STRICKLAND: If I can just go back to the Las Vegas trip in 2007. You booked accommodation for the people that you were travelling with didn't you?---It depends on where. Yes, sometimes, sometimes not.

30

The Venetian Rooms?---Which year was that.

I'm talking about 2007?---If, if we stayed in the Venetian, then yes, I'll take your word that that, then that's, that's the case, yes.

And you paid for those rooms, didn't you, on your Amex card?---I would have, I would have put my Amex card down, not necessarily paid for everything, but depends on, depends on who went and, and when.

40

I'm happy to show you your records in due course but your Amex records show that you paid on 28 February, 2007, you paid for seven rooms at the Venetian at \$A311 each?---Right.

Does that ring true to you?---Could, could well be true, yes, absolutely, yeah.

And, and included in that were those people that I showed you on that email who, who attended?---I don't know who, which, which list of people that was, but there was a list of people, a bunch of people that went, and yes, I would have paid for the, for the rooms.

THE COMMISSIONER: Mr Strickland, is this a convenient time to - - -

MR STRICKLAND: It is a convenient time, thank you.

THE COMMISSIONER: We'll adjourn 10 ten minutes.

SHORT ADJOURNMENT

[11.16am]

10

THE COMMISSIONER: Yes.

MS HUGHES: Commissioner, I seek leave to appear on behalf of Mr Jonathan Nguyen.

THE COMMISSIONER: Yes, Ms Hughes.

20 MR STRICKLAND: So if you go to the bundle which is Exhibit 25, tab 6 and these are faxes from Taronga Park Zoo to a number of the tenderers. The first is to Jonathan Nguyen, do you recall he was a tenderer for this Zoo contract?---That's number 7?

Yes?---Yeah.

Have you got that?---Yeah.

And then if you go over the page Mr Diekman was another?---Yeah.

30 And Mr Hingerty was another?---Yeah.

And then if you go to tab 10, that is the Tender Evaluation Report, page 177 you will see the assessment of the various tenderers, do you see that?---Yes.

Now, there's a reference to SECOM, I want to suggest that that's a mistake in that table, that SECOM was not one of the invited tenderers, do you agree with that?---I don't recall who was invited. It's, it's unusual to only invite three but that was a very, very tiny little job so it could well be the case.

40 But what I'm suggesting to you is there were in fact four, that is the fourth one was AFN?---Ah, right, yes.

And does that - - -?---That, that would, that would make, sense, yes.

Now all of those companies, MJH, Kings, Austek, AFN, they were all - - -?--Known of me, yes.

- - - known and close to you. Would you agree with that?---I wouldn't, they're, they're known to me, they're friends, yeah.

Okay. And if I get you on that bundle, if you could just to the, the, the very last one is, is 30, have you got that same bundle.

THE COMMISSIONER: Tab 30?

MR STRICKLAND: Tab 30, it's right at the very last page?---Yes.

10

And this is not paginated unfortunately but if you just, if you go to the fourth page and this is your travel movements, you'll see that there's a departure date of 26 March, 2007 on Qantas flight 73. Do you have that?
---Yes.

And that's the date you departed for Las Vegas and you came back on 3 April, 2007?---Yep.

20 Then if you keep going over the page you'll find travel movements of Maurice Ciot. Have you got that? Just turn the page a couple of pages?---A couple of pages.

Then you've got travel movements - - -?---Ah, yes.

- - - of Maurice Ciot. And if you turn on the second page of that you'll see that he was on the same Qantas flight, 73 departing on the same date, I think coming back a day earlier?---Yes.

30 And then if you go over that page you'll see Jonathan, excuse me, Jonathan Nguyen. And if you see, if you go to the second page of his travel movements you'll see he was on the same flight?---Right.

Returning on the same date. Have you got that?---Yes.

And then if you turn over the page to Michael Hingerty, he was also on the same flight, 73 and returning on the same date. Do you see that?---I don't see Michael Hingerty's. Where's that?

40 That's the second last page, movement details Michael Hingerty?---Yeah.

And if you go to the second page of that - - -?---Oh, second page of that.

- - - the top entry is 26 March - - -?---Ah, yes.

- - - Qantas flight 73?---Yep.

Now at that time Hingerty and Nguyen were tenderers for or invited tenderers for the Zoo contract?---For that \$30,000 project or whatever.

Whatever value it was they - - -?---It's the tiny little job, yep.

Okay. If I can just, I want to show you your bank records just so you can be reminded. Now if you go first to page 382. You see there's an entry on February 9 for the Venetian Showroom International?---Yes.

The third last entry, 1,413?---Yes.

10 Did you book, do you remember what that booking was for, that individual - - -?---It would have been a show I would think for a whole bunch of people.

Okay. All right. Because there are shows - - -?---A Vegas show.

A Vegas show. Got it?---Yeah.

And then if you go to page 389 on March 14 can you see that you made seven separate bookings?---Yes.

20 THE COMMISSIONER: Where is it?

MR STRICKLAND: Page 389, March 14, the last four entries of that page?---Yep.

And then 390 the first three entries of that page. And then - - -?---They're, they're holding deposits.

All right. But you've in effect booked that - you've made a reservation? ---Made a reservation, yeah.

30

Yes?---Those people would take, typically take care of their own bills from that point.

Okay. But, but you'll notice that the date of it is 27 March, in other words you've flown directly from Las Vegas and this is your first night in Las Vegas. Do you remember the date that I showed you previously it was 26 March, flight out?---Yes.

40 So your first night is in the Venetian Room?---Yeah, on that year, yeah.

Okay. And so the reservation you've referred to is for seven rooms?---Is it? Yeah.

Well that's - - -?---If you count them up, yeah.

Yes. Okay. And then on March 21 on page 390, there's also a, another booking there?---Right.

Would that be for a – is that for an eight room?---It'd be part, part of the same thing. I remember one year, I don't know which year, I had a massive dispute with, with the Venetian and whatever hotels 'cause they just kept putting stuff to my, my card and the guys would take care of their own bills, but I'd end up with a damn bill as well. So we had to go back and sort all of that out. So there's credits and add-ons and all sorts of stuff there.

And if you then go to page 393- -?---Yeah.

10 - - -you'll see that there is another, on March 27, March 28- -?---Yeah.

- - -there's another reservation on the, for the, on that day and then there are actual payments on March 28, March 29, and over the page, March 31. Do you see that?---Yeah.

So you've in fact paid, made some payments for the Venetian Showroom, I'm sorry, I beg your pardon, for the Venetian Showroom or for the Venetian Hotel in relation to various items. Is that right?---As I said, I
20 booked the rooms initially and then the relevant people would typically take care of their own bills. There was a lot of disputes in one, and I think it was this one, where they were billing it to me and we had to go back later on and clear it up. So I don't know how much I paid for and how much I didn't pay for in these. It got cleared up eventually, it took months.

What I want to ask though is this. You had made reservations and had flown with Hingerty and Nguyen- -?---Yeah.

- - -who were tenderers in the Zoo contract. I want to suggest to you that you never advised the Zoo about the travel arrangements you'd made in
30 relation to those two tenderers. Do you agree with that?---Yes, but there's additional information. Do you want to- - -

I do, but, but the first step is, do you agree with that, do you?---That I wouldn't have told them about Vegas, no, I wouldn't have.

Okay. Now, you have some additional information. What's that?---That is that particular project, if you look back to whatever their documents were, their faxes, it was a short, short time frame. They, it was May or something and they needed it done by June 30. They said get whoever you know, and
40 it was typically people who would be on shopping centre tenders, so it was small, it was such a small project it was, it was, I don't know what their procurement guidelines are on, whether you've got to invite three or four or they can go out to a choice or three or whatever it was, but it was such a tiny little project it was get three people, we need this job done by the end of next month. So they would have said to me, you know, I would have said, look, I've got people I use on shopping centres, can I put them on there, yep, no problem. So there would have been no, no dramas in relation to putting

those people on, nor would there be in relation to the size of that project 'cause it was so tiny.

But are you saying that answer that because it was a rushed job- -?---Yeah.

- - -and they asked you to invite various other people, that, that those other people that were invited, Austek and MJH, were in effect dummy bids, is that what you're saying?---Not at all, no, no, no, no.

10 They were genuine bids?---Oh God yeah, yeah.

Okay. So they could have won the contract?---Absolutely.

Okay. Well, in that case then wasn't it, weren't you obliged to disclose to the Zoo the arrangements you'd, the travel arrangements you'd made in relation to these prospective, to these actual tenderers?---Why?

I'm asking, again, I'm not going to answer the question, but do you believe that you were required to do so?---Not, not to my understanding, no.
20

And to this day you still don't believe that?---No.

Did you think- -?---They weren't paying me to put them on a tender list, they weren't paying me to win a tender, they were all competitive.

Now, I want to ask you some questions about Sydney Ports, and if you go please in the bundle which is Exhibit 25, I'm sorry, I tender the bank statements.

30 THE COMMISSIONER: The Gold Card statement of account. Is that what you're talking about?

MR STRICKLAND: Yes, that's correct, yes.

THE COMMISSIONER: The Gold Card statement of account of Mr Paul ending on February 26, sorry, commencing, no. The Gold Card statement of account of Mr Paul dated 27 February, 2007 and seven pages is Exhibit 27.

40 **#EXHIBIT 27 - STATEMENT OF ACCOUNT OF MR DANIEL PAUL**

MR LLOYD: Commissioner, could we just have a suppression order on the account number and the address?

THE COMMISSIONER: Yes, there will be a suppression on the account, on the, on the membership number, I think that's right.

MR LLOYD: The membership number, sorry.

THE COMMISSIONER: Yes, on the membership number.

MR LLOYD: And the address.

THE COMMISSIONER: And the address.

10

**THERE WILL BE A SUPPRESSION ORDER ON THE
MEMBERSHIP NUMBER AND THE ADDRESS OF THE GOLD
CARD ACCOUNT**

MR LLOYD: And just in relation to those travel records, could we have suppression orders on, well, certainly for my client the passport number and I imagine the other three would like those passport numbers suppressed as well.

20

THE COMMISSIONER: Are there passport numbers on the account?

MR LLOYD: No, no, this is the previous exhibit that was referred to, 30.

THE COMMISSIONER: The previous exhibit is - - -

MR LLOYD: Exhibit 25, numbered 30, travel movements.

30

THE COMMISSIONER: Well, all passport details reflected on Exhibit 25, tab 30 will be suppressed.

**THERE WILL BE A SUPPRESSION ORDER ON ALL PASSPORT
DETAILS REFLECTED ON EXHIBIT 25 TAB 30**

MR LLOYD: Thank you, Commissioner.

40

THE COMMISSIONER: Mr Strickland.

MR STRICKLAND: Thank you.

Well, I just want to take you to - first, do you have a, do you recall a contract for consultative services with Sydney Ports Corporation?---Yes.

And if you go please to tab 15. Do you recognise - - -

THE COMMISSIONER: Tab 15 of Exhibit 25.

MR STRICKLAND: Is it 25? Do you recognise a letter you have written, a proposal for Sydney Ports in relation to a particular job?---Yes.

And the sums you have, the fixed lump sums you've quoted for that job appear at pages 23 through to 26. Is that correct?---Yes.

And if you take it from me they equal approximately \$30,000?---Do they? Yeah.

10

And you got that job didn't you?---Yes.

And in dealing with that job, sorry, in dealing with Sydney Ports you were familiar with Mr Peter Shepherd, correct?---He was the client, yes.

And do you remember what his position was?---He was the security manager I believe.

And you also met with Mr Anthony Meijer?---That's correct.

20

That's M-e-i-j-e-r. And what was his position?---I don't know, he was, he was second, second in charge under, under Peter I believe.

Now, do you recall introducing Kings Security to Sydney Ports?---I don't recall introducing, I don't know, no, no, I don't recall that.

Just go to tab 14?---Ah hmm.

30

And if you look at the, go to page 121 first. You've written an email to Charlie Diekman. Just, if you could, have you read this documents? I'm sorry, before that, could I just get you to read to yourself page 121? ---Sure.

And in the middle paragraph you say to Charlie, "I would like to introduce you to Peter and Anthony." That's Peter Shepherd and Anthony Meijer. Is that correct?---Yes.

40

"To set up a meeting." And Anthony Meijer was one of the people that went to the ISC conference in 2007, wasn't he?---I don't, ah, I assume so, without going back through the paperwork, yes.

Well, I want to suggest that the evidence is from Mr Meijer and his records and other records that he went there?---Sure.

You wouldn't disagree with that?---No.

Okay. And what reason did you have to introduce Kings to SPC?

---Well, going back over that bunch of emails it says that we'd previously trialled a Biometric fingerprint-reading system and it failed miserably.

Yep?---And we'd been, been in contact with another organisation, a manufacturer/supplier, and they suggested that Kings had, had installed it somewhere else on another project successfully and so we were trying to, endeavouring to trial the system 'cause I'm sceptical about the operation of the thing.

10 Okay. And if you go to page 120 you will note that the following day Mr Diekman wrote to you saying he'd welcome the opportunity to be involved at the trial for the Sydney Ports?---Sure.

Okay. And just notice the date of the first email from you to Mr Diekman, 16 January, 2007. That is some nine days before the \$11,000 invoice which is Exhibit 2R1 which I've shown you a couple of times?---Yeah.

Had you had the, do you remember if you had the, the bet by that stage?
---I have no idea.

20

Was there any connection- - -?---I assume I must have had the bet by that stage because, because the invoice was raised.

Well, the invoice was raised on 25 January- - -?---Right.

And this is, I'm asking you about, this email's on 16 January?---Oh, I see. Oh, then, then I don't know because I don't know where that, where, where the, where the actual bet was made.

30 But is there any connection between the payment of \$11,000 to you by Kings on 25, pursuant to that invoice on 25 January, and you introducing Kings to Ports?---Not at all.

There's no connection?---Not at all.

The timing is coincidental?---100 per cent coincidental.

Just to jump ahead, it is in fact that case that Kings did meet with the Sydney Ports employees. Correct?---I assume so, yes.

40

And that eventually Kings won a sizeable contract with Sydney Ports?
---At tender I believe, yes.

That's right, at tender?---Yeah.

At a tender in which you were a security consultant?---One of, yeah, of one, one of the assessors, yeah.

Okay. Now, if you could, if you could then please go to tab 18. Now, have you, this is an email, or two emails from you to Anthony Meijer in relation to revised budgets for the Ports contract, the first is on 7 January '07, and the next is on 19 February, 2007. Do you recall a part of your job as a security consultant was to prepare a budget for the security contract?
---I don't recall. I don't recall the detail of it but I assume that was, that would be the case.

10 Okay. Well, have a look at that email and just, if you want to flick through the documents attached to that email?

Tell me when you're finished?---Ah hmm.

I just want to show you - - -?---Some of this is not my documentation.

I guess all I'm wanting to ask you to confirm is do you recall a part of your job was to prepare budgets?---Yes.

20 Okay. If could then go please to tab 19 and that's a Sydney Ports document. I just want to take you to page 143. And I'm not suggesting that you saw this or wrote this, but just as background, but there's a recommendation from Mr Shepherd to, to conduct this trial of Biometric technology at a cost of 13,700. Do you see that?---Yes.

And then if you go to tab 20 there is a, I'm sorry, the date is relevant on the last document. That recommendation was made on 16 March, 2007. And then at tab 20 there's a proposal from Kings in relation to that Biometric technology trial for 13, 700?---Yes.

30 Do you see that?---Yep.

And do you recall – and if you go to tab – do you recall that Biometric trial was actually conducted?---Yes, it was.

And was it successful?---Not to my knowledge, no.

Okay. Now - - -?---I don't recall the finer detail whether it got pulled out or not, but I'm yet to see a decent Biometric system.

40 Okay. In any event you had dealings with Mr Meijer up until March 2007 in relation to the Biometric trial and do you recall that?---Yeah.

Did you ever advise Sydney Ports that Mr Meijer was travelling with you on to Las Vegas?---Did I ever advise Sydney Ports?

That's right?---I would have written Anthony Meijer an invitation the same way I write all my clients those invitations and they would have submitted it to their management I assume.

What was the purpose of inviting Mr Meijer?---So he could get a grasp on the technology.

And was it also to network with him?---To network with him or to network, to, to allow him to network with, with the industry, yeah.

Including Mr Diekman?---Yeah, if Diekman was there, yeah.

10 Well, if he was there he was, you accept that Mr Diekman?---As were, as were probably 20,000 other people.

Do you accept that Mr Diekman was there on the, in the 2007 conference?
---If, if the records show that then I don't deny that.

And Mr Meijer and Mr Diekman did socialise and network in that trip didn't they?---Most likely, yes.

20 Now the contract, the larger contract that Kings was ultimately awarded was valued close to half a million dollars, do you agree with that?---I don't recall the details of it.

It was a large contract, wasn't it?---It was a whole bunch of gates.

The one that they eventually won?---I don't recall the details of the, the values.

30 Now, at the same time, at roughly the same time do you recall being involved in a, do you recall being a consultant in relation to security for AMP?---I don't recall the dates of that.

Okay. I want to show you, I want to show you a bundle of emails. Sorry, I just want to take you please to some of these emails. The first one is from Daniel Paul to Charlie Diekman, Jonathan Nguyen and others inviting them to attend a site brief meeting at AMP Parramatta and finding attached an RFQ, that's a request for fixed price specification, is that correct?---A request for quotation, yeah.

40 Sorry, a request for quotation. And then if you turn over the page there's a further email on 11 April, 2007 attaching AMP's tender schedules in Word format. So do, do you recall now that in March/April 2007 you invited a number of people to tender for this contract?---Ah, yeah.

Now, and they included Kings Security, Tony Grubisic from ACG?---Yeah.

And he was a friend of yours?---Yeah.

Dominico Musto, I'm sorry - - ?---Dominic Musto, yeah.

I'm sorry, I beg your pardon. And he was from SECOM?---Yes.

And Jonathan Nguyen from Austek?---Yes.

And you were all, you were common to those people, you were friends with all those people?---Friends with all of them, yeah.

10 Okay. Now, Kings won that tender, do you remember that?---I don't recall who won that tender.

You don't recall?---There was numerous ones with AMP so, yeah.

Well, this one in March/April 2007?---Right.

Can you recall who won that, that tender?---No, I don't.

I tender that email chain.

20 THE COMMISSIONER: I'm not sure what it proves, Mr Strickland.

MR STRICKLAND: It is relevant, I'll MFI it at this stage and I'll tender it later. It's relevant to prove - - -

THE COMMISSIONER: But I think Mr Paul has admitted everything you - - -

MR STRICKLAND: I beg your pardon?

30 THE COMMISSIONER: He's admitted everything you've put to him.

MR STRICKLAND: Yes, that's so. I'll MFI it at this stage if I could.

THE COMMISSIONER: Yes. All right. The chain of emails ending Friday 2 March, 2007, ending with an email from Mr Paul to Mr Diekman and others is MFI8.

40 **#MFI 8 - EMAIL FROM MR PAUL TO MR DIEKMAN
REGARDING AMP PARRAMATTA DATED 2 MARCH 2007**

MR STRICKLAND: Excuse me, Mr Commissioner. So did you receive any cash payments from Kings in February 2007?---I don't recall, no, not, not that I recall, I don't know.

I just want to show you Exhibit D1, please, Exhibit 1, D1. I'm just going to show you a series of documents, most of which has been tendered, and I just

want to ask you some questions about them. You've got, there's, there's a, you've got this email here from Mr Diekman to Mr Roche, and I'm not suggesting you've seen that before, other than in this hearing, but there's a reference there to, "I need to get Dan the 10K cash by Thursday morning." That's on 13 February, 2007.

THE COMMISSIONER: Page 73?---Yeah.

MR STRICKLAND: I'm sorry?

10

THE COMMISSIONER: Page 73.

MR STRICKLAND: Thank you, page 73. Do you see that?---I can see that.

Right. Did you ever, did you ever ask Mr Diekman for \$10,000 cash? ---For what? No.

20

Did you ever ask him for \$10,000 cash at that time?---No.

Did you ever receive \$10,000 cash at around, at around that time or after that time?---No, not that I recall.

Okay. Can you think of any legitimate reason in February 2007 why Charlie Diekman or Kings would pay you \$10,000 cash at that time? ---Unless there was a bet, no.

But the bet, the \$11,000 bet was January 25- -?---Right.

30

- - -2007?---Right.

So- - -?---But when was that paid?

Well, well, it was paid to you?---Yeah.

So when, when was it paid?---Well, I don't know. But I mean you've got my bank records no doubt but it's, somewhere along the line it was paid, so apart from that, no.

40

But that payment of \$11,000 was not, was obviously not a cash payment, was it?---I wouldn't expect so, no.

So this is something separate, isn't it?---Well, that's got nothing to do with me.

Assuming, assuming it relates – I withdraw that. The request for \$10,000 cash is not related to the \$11,000 invoice, is it?---I have no idea. That's Charlie's document, not mine.

Now, I then want to show you, I'm just showing you this in terms of the chronology, have a look at Exhibit D53.

THE COMMISSIONER: Tab 53?

MR STRICKLAND: Tab, tab 1. Exhibit 1, tab 53. Now, they are two cheques made out to, or they were two cheque butts made out to cash, you've got to assume this, one for \$9,000 and one for \$5,186.33 on 14
10 February, 2007, that's the following day from the email?---Right.

Just assume that. And I want you to assume that they, Security Merchants, which is on the bank cheques, was a, it's a, it's a bogus cheque butt, they didn't, this wasn't actually a payment to Security Merchants?---You'd have to check with Charlie on that, yes.

MR STRICKLAND: Okay. But that's the evidence he has given in this case?---Right.

20 Okay. Now I just want to show you now – I'll just show you those documents as a date context?---Right.

If I can just show you now some – a copy of a joint cash management account between yourself and Lisa Paul. And do you recognise that as the joint bank account of yourself and your wife, Lisa Paul?---Yes.

And if you go to 28 February you can see that there are, that there is a cash deposit of \$5,000 on that day, an internet deposit on that same day?---Yeah.

30 And then on the same day there are two internet withdrawals which you have – sorry, which I described as loan from DP, that would be you?
---That's me, yeah.

For tax?---Yeah.

And loan two from - - -?---From DP to SCI tax.

Right. Okay?---Yeah.

40 Now if I could just show you – I tender that St George statement of account.

THE COMMISSIONER: The statement of account for the period 22 September, 2006 to 21 March, 2007 relating to the account of Mr & Mrs Paul with St George Bank is Exhibit 28. And the bank account number will be suppressed.

**#EXHIBIT 28 - STATEMENT OF ACCOUNT OF MR & MRS
PAUL'S PORTFOLIO CASH MANAGEMENT ACCOUNT FOR
PERIOD 22 SEPTEMBER 2006 TO 21 MARCH 2007**

MR LLOYD: And address.

THE COMMISSIONER: And the address will be suppressed.

10

BANK ACCOUNT NUMBER AND ADDRESS SUPPRESSED

MR STRICKLAND: If I could show you another account, please. And do you recognise that as a St George statement of account Freedom cheque account for your wife?---No, I don't. It may well be hers, I assume it is hers, but I don't know her bank account details, no.

Okay. The address , , , , . Do you recognise that?---Yeah, of course.

20

Just for the record that's when you live?---Yeah of course, that's where I live, yes.

Okay. And - - -

MR LLOYD: Could we have that suppressed?

THE COMMISSIONER: Yes.

30 MR STRICKLAND: Yes.

THE COMMISSIONER: That address will be suppressed.

ADDRESS SUPPRESSED

40 MR STRICKLAND: And can you see on 28 February on that account there's a cash deposit of \$5,000 and then on the same day an internet withdrawal for \$5,000?---For tax, yes.

For tax money. So it appears that the, the internet withdrawal of \$5,000 then went to your joint account?---Most likely to pay for the tax, yes.

I'm just doing it a step at a time?---Sure.

So \$5,000 was deposited into her account and then withdrawn and deposited into the joint account?---Right.

Do you agree that that's what the records show?---I have no idea, but yeah, I mean following that it looks like that, yes.

I tender that statement.

THE COMMISSIONER: Yes, the statement of account of Mrs Paul, Mrs Paul's bank account number, sorry, for the period 22 February, 2007 to 21 March, 2007 is Exhibit 29 and the bank account number will be suppressed.

**#EXHIBIT 29 - STATEMENT OF ACCOUNT OF MRS LISA PAUL
FREEDOM CHEQUE ACCOUNT FOR PERIOD 22 FEBRUARY
2007 TO 21 MARCH 2007**

MR LLOYD: And address also, Commissioner.

20 THE COMMISSIONER: And the, well, the address is suppressed. Whatever the address of Mr and Mrs Paul appears in the transcript it will be suppressed.

**THERE WILL BE A SUPPRESSION ON THE BANK ACCOUNT
NUMBER AND ADDRESS IN EXHIBIT 29 AND THE ADDRESS OF
MR AND MRS PAUL WHEREVER IT APPEARS IN THE
TRANSCRIPT**

30 MR STRICKLAND: So based upon those two statements of account, Exhibits 28 and 29, there were two lots of \$5,000 cash deposited into, one into your joint bank account and another into your wife's bank account on 28 February?---Right.

Did that money come from Kings?---No.

Where did the money come from?---It may have come from Lisa's mother if it was a loan but I don't, I don't recall the detail of it. I have no idea.

40 Why do you say it may have come from Lisa's mother if it was a loan?
---'Cause if we were short money sometimes we would ask her mum for a loan of money.

But you don't know if that was the case on this occasion?---I certainly know it wasn't from Kings.

Just answer that question?---I am answering the question.

No, it's not.

THE COMMISSIONER: You're not?---Answer the, ask the question again please.

MR STRICKLAND: You don't - - -

10 THE COMMISSIONER: The money's not from Kings?---Sorry?
The money is not from Kings?---No, the money is not from Kings.

MR STRICKLAND: My question was you don't know whether that, the two lots of \$5,000 was a loan from Lisa's mother do you?---Well, the, the \$5,000 that is attributable to Lisa's account you'd have to ask Lisa, I don't know the detail of that.

20 THE COMMISSIONER: Well, you don't know, that's the answer?---No, I don't know.

MR STRICKLAND: What's the name of Lisa's mother?---Caroline Gent.

So can you, apart from Caroline Gent, can you think of anyone else that would be the source of the two \$5,000 cash deposits?---If you give me back those two accounts I'll have a look for them.

Yes?---Through them for you. No, although there's an entry here on the 29th for the joint account that shows \$6,000 cash and/or cheques.

30 What date please?---On 29 January. So whether there was a loan paid back, I don't, I don't know the detail, whether it went in, it was owing or something, I don't, I don't know, no.

So the answer is apart from Caroline Gent you can't nominate any other person who may have been the source of the two \$5,000 cash deposits? ---Oh, it would have been, possibly me, possibly me, yeah.

40 Well, did you on 28 February, 2007 deposit \$5,000 into your account, your joint account and \$5,000 into your wife's account?---You're talking five years ago, I have no, I can't remember back that far, whether I deposited \$5,000.

THE COMMISSIONER: Where did you get the cash from?---Sorry?

Where did you get the cash from?---Probably from betting.

MR STRICKLAND: Betting with Mr, with Mr Diekman?---Oh, or somebody else or, you know, yeah.

THE COMMISSIONER: And the dates are just coincidence?---A hundred per cent, yeah. I mean, they're such small amounts and they're for tax, I have no idea, no.

MR STRICKLAND: I want to show you another document that has been tendered which is Exhibit D39, Exhibit 1, tab 39. Now, in that email which is dated 30 May, 2008 Mr Diekman writes in the email to Mr Roche that he's paid for a number of opportunities out of his account in the last year and two of those he nominates as you. One of them was Dan Paul?---No, Dan P.

I'm, thank you, Dan P, the \$2,000 AMP job. Now, you were the security consultant for, for AMP in March/April 2007. Correct?---Yes.

Did you ever receive \$2,000 from Mr Diekman in relation to any assistance or work or anything in relation to the AMP contract?---Not at all.

Do you have any idea why Mr Diekman would state that he had paid \$2,000 to you for the AMP job?---Yeah, at the bottom of that email he's saying you can buy me a pool. I assume, my guess, best guess is, he was attributing a whole bunch of things to, to jobs that he's, he's involved in and taking the money from the company.

Okay. The next one is, Dan P, \$8,000 Vegas sponsor?---Ah hmm.

Now, there was no other person who went in 2007 or 2008 who could fit that description other than yourself, is that right, Dan P?---I have no idea who else went to Vegas.

Was there anyone else that you knew of who was Daniel with a surname beginning with P?---Not that I know of, but it wasn't me that wrote that email.

No, I understand that, but what I want to suggest is, that the total expenditure as revealed in Exhibit 27, from your Amex account for the Las Vegas trip totals approximately \$8,000. Do you agree with that?---I have no idea, I've never added it up.

You've never added it up?---No.

Well, you can do that in your own time, but I want to suggest to you that it does amount to approximately, not exactly, \$8,000. Do you, do you, do you agree or - -?---No, I've never added it up, I've never looked at it.

Well, see, what we have is, in February, in early February '07 we've got a request from Mr Diekman to Mr Roche for \$10,000 for Dan. O.K. That's on 13 February, '07. O.K. Then on 28 February, 2007, we've got two

\$5,000 deposits, that's \$10,000, deposited cash into your account, your joint account and your wife's account. That's the next fact. And then we've got approximately \$8,000 worth of expenses for the Las Vegas trip as recorded in your bank statements and then we've got in May 2008, a statement by Mr Diekman saying that he has paid you \$8,000 for the Vegas sponsor. That suggests, doesn't it, that you have, that the, that that, 8 of that \$10,000 deposited into your bank account, your joint bank account and your wife's bank account, came from Kings?---No, that's what you're suggesting, that's not the fact.

10

Well, it's a series- - -?---The fact is the money never came from Kings.

It's a series of coincidences, isn't it?---It may well be a series of coincidences that you string together but it's not a fact.

When you say I string together, I've shown you the documents, haven't I?
---Oh, you've shown a whole bunch of documents with dates on them and a, and a bunch of deposits and the like, but I never received \$10,000 cash from Charlie for any such thing or from Kings for any such thing.

20

Did Mr Diekman ever provide you with money in relation to the Las Vegas, any Las Vegas trips?---What do you mean? In what- - -

In any capacity?---What do you mean? What do you mean? Like provide me with money for what?

Did he, did he fund any of your Las Vegas trips either the airfares, the accommodation, the expenses?---No. He went halves in, in an expense with, I took some clients and some of the people that went to Vegas to a Grand Canyon tour, but I invoiced for that.

30

How much was that?---Oh \$4,000 I invoiced him half of it, we went halves in it.

When was that?---One of the trips. I, I don't recall the specifics of it.

You don't recall which year?---I don't recall which year.

Okay?---I've been there many, many, many times.

40

See getting back to the – and it's not a suggestion it's a fact, two \$5,000 deposits into your joint account and your wife's account, the fact is you can't explain the source of that money can you?---I assume it's from betting or its cash that I had hanging around. I just, yeah, it's negligible, it's \$10,000.

Well forget whether you say it's negligible or not, there's an email trail together with a bank statement trail connecting that - - -?---(not transcribable)

I'll just finish the question, connecting those two deposits with payment by Mr Diekman?---No, they don't connect. They coincidentally coincide. They, they sit side by side, but they don't connect because that's not a fact.

10 I just want to go back to Ports if I could. Can you just go to tab 22, please?

THE COMMISSIONER: And what exhibit is that?

MR STRICKLAND: I'm sorry, Exhibit 25, tab 22. Now I'm now asking you about the larger contract with Ports which is in the mid to late part of 2007. That's for the supply, installation and commissioning of the electronic access control and the security system for the gates, et cetera. Do you know the contract I'm talking about?---Yes.

20 And you were the security consultant on that contract?---Yes.

And if you look at this document that I've referred you to do you agree if you go to page 245 that that is a report that you prepared on 13 November, 2007?---Correct.

And, excuse me, your recommendation was that Kings be awarded that contract, if you go to page 244?---Yes.

30 Now the – if you go to page 232 the companies who submitted the response included ECS?---Yes.

And that's Raj Masson?---Raj Masson.

R-a-j, R-a-j M-a-s-s-o-n, now he was a friend of yours wasn't he?---Back then I don't think he was a friend of mine.

You became friends?---Yeah.

40 And you became very close friends with him didn't you?---I wouldn't say I'm close friends with him. He's an industry colleague.

Okay. Now one of the tenderers was Mega Electrical. Do you see that? ---Yes.

And you invited them to tender. Is that right?---I have no idea where that name came from. I think Ports might have put them on the list.

So it's not one – it's not of your suggestion?---It may have been, I can't remember. I don't recall.

Now if you go to tab 23 to page 203 and this is a document from Sydney Ports. I'm just reminding you of the price of that contract. The tender price was 473, 700 plus a 10 per cent contingency. Does that strike you as being correct?---I don't know about the contingency, that's Ports, Ports do the budget so they would have written that up. That's their document.

Well, leaving aside the contingency, do you accept that the contract price for that particular contract was \$473,000? Does that strike you as correct?
10 ---Ah, yes, according to the information in the tender evaluation, yes.

Now, if you go to page, excuse me. Do you remember on that bid that Kings was by far the lowest price in relation to those bids? If you just go to, if you go back to tab 22?

THE COMMISSIONER: Tab 200 also isn't it?

MR STRICKLAND: Thank you. I'll just, I'll just take you to tab 22, page 235?---235?
20

That's right, 235?---Yeah.

And you can see that there is the list of prices- - -?---Ah hmm.

- - -of each of the bidding companies. And was, and in this contract, price was 50 per cent of the, the weighted mark. Correct?---Assessment criteria, yes.

Now, was that a standard, a standard percentage for price?---No, subject to
30 which government department or which, which client, they typically will choose where that sits and it's subject to the risk on the project and the availability of products, so there's a whole bunch of variable criteria that goes into assessing what the, what the weighting price will, will be.

Did you know that there was collusion between Kings and Austek about who would get this particular job?---No, there was four tenderers.

Yeah. I'm just asking?---No.

40 Did you, were you aware that Kings submitted their quote to Austek before the tender was closed?---No, not at all.

Did you know that there were discussions between Jonathan Nguyen and Charlie Diekman in relation to, or anyone else, between Charlie Diekman or Peter Roche and anyone else from Austek relating to what price Kings would put in for the tender?---Not that I ever recall, no.

Okay. Just go to tab 25 and you can see that Anthony Meijer has written a letter to Mr Diekman confirming that the tender for that particular access control and security upgrade was awarded to Kings. Is that correct?---Yes.

Now, and your main dealings with Sydney Ports was through Anthony Meijer. Is that right?---And Peter Shepherd.

Right. And do you agree that you had, you formed a social relationship with Anthony Meijer by this stage?---And Peter Shepherd, yes.

10

Both of them?---Yeah, both of them, yeah.

And you had introduced, as we discussed earlier, you'd introduced Kings to Sydney Ports, hadn't you?---I probably introduced a bunch of companies to them, but yes.

Just answer that question. I'm not asking you about a bunch of companies, I'm asking Kings, you introduced Kings to Sydney Ports?---Along with others, yes.

20

Yeah. And as a result of that introduction, Kings was awarded a contract or contracts worth more than half a million dollars in total?---As a result of winning a tender they were awarded it, not as a result of that introduction.

And you, you recommended Kings for the award of that contract, didn't you, as I've shown you in the previous Tender Evaluation Report?---I assessed it along with the other tender assessors, yes.

30

Well, look, that's a pretty simple question. Did you recommend Kings or not?---Yes, I supported the recommendation, yes.

Well, forget supporting it, you recommended it, that's, that's what your report states?---I write the reports, I don't necessarily make the decisions.

But I'm not asking you about that? All I'm saying is you made a recommendation that Kings be awarded the contract, that's a pretty simple question?---Along with the Tender Evaluation Committee, yes.

40

Now did, did, did Mr Diekman give you any reward for your role in - did he give you any reward in relation to after Kings - I'm sorry, I withdraw that question. Did Kings at any stage give you any reward for either introducing Kings to Sydney Ports or any assistance you gave them along the way? ---What do you mean by reward?

Any - - -?---What's a reward?

Any gift, any money, any cash?---He could have bought me a lunch. No, no - - -

Any cheque? I'm asking, I'm not asking what he did, I'm asking what, I'm not asking what he could have done, I'm asking what he did?---I'd say no.

Why would you say I would say no as distinct from no?---Because you didn't ask, if, if, if, if a lunch is involved then yes, he may have bought me a lunch but no, I haven't received cash for it or any substantial gift, no.

10 You say any substantial gift, what about any non-substantial gift?---He bought me a lottery ticket at Christmas once. Is that a gift?

And do you recall - I withdraw that. Excuse me. I'm going to show you a document please, an email. Is that an email that you sent Mr Nguyen?---I assume so, yes.

I tender that email.

20 THE COMMISSIONER: Yes. The email from Mr Paul to Mr Nguyen of 28 November, 2008 is Exhibit 30.

#EXHIBIT 30 - EMAIL FROM MR PAUL RE THIRD CONTRACT NEEDED FOR QUEENSLAND DATED 11 MARCH 2008

MR STRICKLAND: 30?

THE COMMISSIONER: 30.

30 MR STRICKLAND: So what were you awaiting payment for?---I, I don't recall. I have no idea. We worked a lot on Westfield projects and Jon Nguyen was advised by Westfield to pay me for revisits of, of witness tests and stuff so it may have been something to do with that, I don't know, I don't recall.

THE COMMISSIONER: What's better to hear the truth?---I beg your pardon?

40 Wanted to hear the truth?---Couldn't, couldn't tell you, I don't know what that refers to.

MR STRICKLAND: What do you mean when you said "I've lived up to my side of the bargain, WF, Lenel, Colonial First invitation"?---WF I would assume is Westfields but I don't, I don't know what the Lenel is, I don't know.

THE COMMISSIONER: Well what was your side of the bargain?---I have no idea. I don't know what that - - -

What bargain could it possibly be?---I don't know what that email refers to.

It's your email?---I know. It's in 2008.

I don't care when it is, it's your email and you're talking about living up to a bargain. What bargain could it possibly be?---I have no idea. I was, I was dealing with John on a daily basis back then so I have no idea.

- 10 Well what would he paying you for?---He was developing some software way back then and he wanted an introduction, he wanted me to specify it and I told him I wouldn't unless he could find somebody else to, to sell it as a wholesaler, right, in other words it wasn't going to be proprietary.

What has that got to do with him paying you money?---Yeah, because, because I, I was intermedior, I introduced him to others to, to try to get that software off the ground for him or with him.

- 20 So what was he paying you for?---For, for facilitating meetings and, and, and setting up MDAs and stuff with the, with the other supplier.

You charge for doing that sort of thing?---Absolutely.

MR STRICKLAND: How much did he pay you?---I don't recall the amount that was paid. It was invoiced.

THE COMMISSIONER: And when was it? What, what year was this?---I don't recall the year, but you're saying what could that possibly be.

- 30 Approximately?---I'm suggesting that could possibly be that. I don't, I don't recall. I'd need to look at the dates of, of those invoices and that, that document.

Well we're talking about a year now. It's a very broad basis for specifying a time?---We're talking about five years ago.

Four years ago?---Four years ago, yeah. A lot of things happen between now and then, then and now.

- 40 So you're saying it's one contract you had with Jonathan Nguyen whereby he owed you money and it could possibly have been that?---It could have been a number of things.

Well what else could it have been?---I just told you.

No you haven't. You've told me one thing?---I just told you, back then I was invoicing him for revisits at Westfield witness tests. So that was invoiceable. I don't, I don't recall the specifics of this email.

You were invoicing him for revisits of Westfield tests. What does that mean?---Westfield witness tests.

What's that mean?---When we, when a, when a job is installed I go out and inspect the quality of the job and if the job doesn't live up to the specification or the requirement of the client, then I defect it and I go back two weeks later or a week later to reinspect it.

10 Why does he pay you?---Because the client said he'll take that out of the contractor.

So that's money you get in your pocket?---Invoiced, yes.

Not Westfield, you personally?---Yes.

And Westfield authorised you say?---Absolutely they did, yes.

20 So it's in your interests to make a default?---It's not in their interest, it could cost them.

It's in your – just answer the question, please. It's in your interest to make a default because - - -?---It's not a default it's a defect.

Just let me ask the question. It's in your interests to default Mr Nguyen because if you do he has to pay you personally?---No, it's not in my interests.

30 Why is it not in your interests?---Because it's in my interests to get the right solution, the right outcome for the client as quickly as possible.

But isn't there a conflict of interest there Mr Paul?---Speak to Westfield about that.

No, I'm asking you?---No, I don't believe there is.

Oh, so even though every time you default Mr - - -?---Defect.

40 - - - defect Mr Nguyen you put money in your pocket from him?---That's correct.

And your job is to give an honest answer to whether a defect notice should go out or not?---Absolutely.

Yes, yes.

MR STRICKLAND: Let's assume that the demand for payment related to the Westfield witness tests. How does that explain the second half of the

email where you say, "I have lived up to my side of the bargain"?---I have no idea. As I said to you it may or may not reflect that particular issue, the Westfield witness testing. It may be part of the, part of the introduction and facilitation of his, of his software.

See there's no doubt this email demonstrates that you and Mr Nguyen had some kind of agreement which you've described in this email as a bargain. Correct?---We had a relationship. I don't, I don't recall the detail of this email.

10

THE COMMISSIONER: Who in, who in Westfield authorised you to issue defect notices in respect of which you were entitled to put the money that was required to be paid as a result of those notices into your own pocket? ---Michael Julian.

MR STRICKLAND: How do you spell that name?---M-i-c-h- - -

No, the second name?---Julian, J-u-l-i-a-n.

20

I see. Right. Now, were you a consultant to Colonial First? ---Ah, yes, I was.

And were you a consultant to Lenel?---No.

So what, what relationship did Mr, when you say, "I've lived up to my side of the bargain", referring to Colonial First invitation, sorry, Colonial First, that indicates that there was some agreement between you and Mr Nguyen involving Colonial First, doesn't it?---I have no idea what that refers to.

30

No, I know, but I'm just, I know you say that, but I'm just looking at the words in the email, an email that you wrote. The only meaning that can have, that, "I've lived up to my side of the bargain", and listing Colonial First, and given that you were a consultant to Colonial First, was that you had, there was some agreement between you and Mr Nguyen which related to Colonial First, doesn't it? That's what those words mean?---That's your interpretation of them. I don't know what they mean.

What other interpretation can be placed on those words?---I don't know because I don't know the context of the email.

40

Well, do you recall any agreement you had with Mr Nguyen relating to either Westfield, Lenel or Colonial First?---Yeah, Westfield, in relation to going back and defecting him.

What about Lenel or Colonial First?---No, I don't, I don't recall those.

THE COMMISSIONER: How much money have you made from Mr Nguyen by defecting him?---I have no idea.

None at all?---None at all.

Is it thousands of dollars?---It would be thousands of dollars, yeah.

Tens of thousands?---I wouldn't have a clue.

Sure?---Yeah.

10 You don't know whether it's thousands or tens of thousands?---I wouldn't have a clue.

It doesn't mean anything to you, it doesn't, it means so little to you that you can't even remember whether you made thousands or tens of thousands from him?---Correct.

MR STRICKLAND: Mr Commissioner, I didn't catch the last few words of the question, how much money did he make from Mr Nguyen?

20 THE COMMISSIONER: Yes, he doesn't care whether it's - - -

MR STRICKLAND: No, I didn't get your question, the last few words I'm sorry. How much money did he make from Mr Nguyen- - -

THE COMMISSIONER: From defecting him.

MR STRICKLAND: Thank you, from defecting him.

30 THE WITNESS: It's not I don't care, I don't remember.

MR STRICKLAND: I just want to show you, I'm just going back to the Sydney Ports contract. Do you, do you recognise that as an invoice sent by that company?---No, it's not addressed to me, I've not seen it before.

Okay. I beg your pardon, I said invoice, I meant quote, thank you. That could be marked as well in that case.

THE COMMISSIONER: Yes. The quote from Megger Electrical is MFI9.

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#MFI 9 - QUOTE FROM MEGGER ELECTRICAL SERVICES TO SYDNEY PORT CORPORATION DATED 31 OCTOBER 2007

MR STRICKLAND: Just going back to Mr Nguyen, you had, you socialised with him at that time, didn't you?---At what time?

November, well, 2007/2008?---I presume so. I don't, I don't recall the details or the dates. Oh, what do you mean socialise?

Had dinner with him, had lunch?---I didn't have many dinners with him, it was work-related, so may have had the odd lunch but typically it was all work.

I'll just show you this, this email?---Thank you.

10 Do you remember Mr Nguyen organising a dinner between you and him?
---I don't, that means nothing to me, it just, it says, "Organiser John Nguyen, dinner with Daniel Paul." So I don't know when it was or what it was in relation to, no.

I tender that.

THE COMMISSIONER: I think that will have to be marked.

MR STRICKLAND: Well, I'll mark it.

20

THE COMMISSIONER: What is it?

MR STRICKLAND: It's a, I beg your pardon?

THE COMMISSIONER: What is it?

MR STRICKLAND: It's a, I think it's a document from an Outlook Express document or just a, I think it's a dinner invitation.

30 THE COMMISSIONER: All right. A note of a dinner - - -

MR STRICKLAND: It's from an electronic diary.

THE COMMISSIONER: A note from an electronic diary concerning dinner with Mr Paul on 1 November will be MFI 10.

**#MFI 10 - NOTE FROM ELECTRONIC DIARY CONCERNING
DINNER WITH MR PAUL**

40

MR STRICKLAND: Can I just show you another email please. Now, do you remember doing some work for Cairns Council?---Yes, I do.

And you were a security consultant for that?---Yes, I was.

And do you recall writing this email?---Yes, I do.

And I tender that.

THE COMMISSIONER: Yes. The email from Daniel Paul to Terry Yallouris and others of 11 March is Exhibit 31, 2008, is Exhibit 31.

#EXHIBIT 31 - EMAIL FROM MR PAUL RE THIRD CONTRACT NEEDED FOR QUEENSLAND DATED 11 MARCH 2008

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MR STRICKLAND: Now, you've been asked to - do you have a copy of that there or not?---(No Audible Reply)

You've been asked to identify I assume by someone at Cairns Council for a third, a third provider for a fixed quote, is that right?---For a tender.

20

For a tender. And you've suggested Austek as the third tenderer, is that right?---No, I'm asking Terry in this email do you know anyone else, in fact I've copied Paul Thompson on it, do you know anyone else who, who's, who's Pelco accredited.

But the email's also to Jonathan Nguyen isn't it?---Yeah, he was on the, he was on the list.

Yeah, but what's the point of writing Austek "a Cairns-based small business" nominated by the client?---No. It's, it's saying we're looking for a Cairns-based small business nominated by the client is, is, is one of the tenderers - - -

30

I see?--- - - - and someone else please - - -

I see?--- - - - and so we're asking or I'm asking, sorry, who's, who's another player, who's someone else we can put on there.

So one of the, one of the invitees was Austek, is that correct?---Yes.

Okay. And, and who won that job, do you know?---I think, I think ECS won it.

40

So did you, you, you invited Austek from time to time to put in a tender proposal, is that right, such as this?---Yeah, if the client asked me to, to nominate contractors then yes, I would, I would choose Austek, yeah.

All right. I mean, does, does the payment referred to in the earlier exhibit, Exhibit 30, where you demanded payment from Mr Nguyen, does that relate to your promoting Austek or your nominating Austek to, or assisting Austek in relation to obtaining tenders or - - -?---No.

- - - introducing them to other clients?---No.

Mr Commissioner, I'm going on to another segment, is this a convenient time?

THE COMMISSIONER: Yes. The Commission will adjourn till 2.00pm.

LUNCHEON ADJOURNMENT

[12.54pm]

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