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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 2.03PM

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

THE COMMISSIONER: Yes, Mr Strickland.

MR STRICKLAND: Could the witness please be given Exhibit 25. Just go to tab 15 please, go to page 27 on the top right-hand corner please. Okay. That's a letter from you to Mr Shepherd of Sydney Ports on 30 May, 2005? ---Yes.

10

And do you recall what business you had with Ports in May 2005?---No, I don't.

The last two paragraphs of that letter include the standard statement that SCI is independent and doesn't have commercial arrangements, et cetera and the last paragraph refers to, well, the last sentence of the last paragraph refers to the need to notify SPC in writing and declare any potential conflicts of interest concisely, openly and without delay?---Yeah.

20

So you obviously stood, understood in May 2005 about the need to declare actual conflicts of interest - - -?---Yeah.

- - - and potential conflicts of interest. Is that true?---Yes.

And what did you, what did you understand was for example a potential conflict of interest, what did you understand by that term?---That if, if I was doing some work for Sydney Ports and I was doing some work for a contractor at the same time that would conflict with the work that I was doing with Sydney Ports, that I would declare it and, and either stop doing it or speak to Ports about how, how that should be managed.

30

That's an actual conflict of interest isn't it?---That's actual or potential.

What, what's the difference between an actual or potential conflict of interest?---Well - - -

Your understanding?---My understanding, the actual conflict of interest is, is, is taking, its taking bribes or anything like that from, from a contractor to help them win a project or to influence the project in any way but - and a potential would be, as I said, if I was working for them at the time on something that, or for the contractor at the time for something that conflicts with the client's requirement then, then that would be a conflict.

40

That's an actual conflict, I'm asking you what's a potential conflict of interest?---(No Audible Reply)

If you were actually working for a contractor and it did conflict with the interests of your client that would be an actual conflict of interest, correct?

---Yeah, but - - -

So my question is what's a potential conflict of interest?---Well, I don't know, I've never really given it a great deal of thought.

THE COMMISSIONER: Well, I think that's apparent, let's move on, Mr Strickland. He doesn't know.

10 MR STRICKLAND: Thank you. I want to ask you some questions about the University of Western Sydney?---Sure.

There were two contracts that you were involved in or at least two contracts you were involved in with UWS in 2007. Is that correct?---Yeah.

There was a small one, the flat floor teaching space contract?---No.

You don't recall that one?---I don't, I don't recall that at all, no.

20 What about a - do you recall a smaller contract involving Kings?---No.

No. Okay, okay. But you recall a larger contract in relation to UWS worth about a million dollars, is that right?---I don't know what it was worth, the access control contract.

That's right?---I don't know what it - - -

The Concept 4000?---Yeah, the access control contract, yeah.

30 And that was across all campuses?---Yes.

And you were the, you were the security consultant for that tender, is that right?---I was the second security consultant for that contract.

Who was the first?---I don't know who they were, they, a company prior to me wrote the tenders.

Oh, yes, but when you came on board you became the only security consultant?---At that time, yes.

40 Right. And at that time means at the time the contract was awarded to Kings?---(No Audible Reply)

You were the security consultant?---Yes.

And did Kings ever pay you any money in relation to the UWS contract?
---No.

Did they give you any gifts in relation to that contract?---Define gifts. Is that a lunch? Again, we go over the same thing, is that a lunch. What's the definition of a gift?

THE COMMISSIONER: Look, I'm sorry, you know very well what gifts are, something that somebody gives you?---Have they taken me to lunch, yes, they've taken me to lunch or dinner.

10 MR STRICKLAND: The question was have they given you any gifts in relation to the UWS contract?---No.

Okay. There'd be no legitimate reason, there would have been no legitimate reason would there for Kings to have paid you any money as a consultant on the UWS contract would there?---Not as a consultant, not that I'm aware of, no.

THE COMMISSIONER: Well, in no other capacity either?---What, what do you mean no other capacity?

20 Well, you said not as a consultant, I said in no other capacity either, that was a question?---During that period?

Yes?---I don't know, I don't know what the - - -

Well, what possible reason could Sydney, could UWS have for paying you money in that period?

MR STRICKLAND: Not UWS. Kings?---Sorry, not UWS.

30 THE COMMISSIONER: Sorry, Kings, I beg your pardon, Kings?---Well it depends on whether the betting was during that period. I don't know. I don't recall it.

Kings weren't betting with you, Mr Diekman was - - -?---No, it wasn't Kings it was Mr Diekman.

Yes, well I'm talking about Kings?---Yeah, but, but sometimes he paid out of Kings account. And you guys are, are saying that that's a Kings payment, therefore I'm trying, trying to clarify that.

40

MR STRICKLAND: So was there betting with Mr Diekman whereby he paid you money during the time of the UWS tender and contract?---I don't recall. I don't recall.

Well if there was no such betting at that time then would there have been any legitimate reason for Kings to have paid you any money during – in relation to the UWS contract or during the process of both the tender for the UWS and the work carried out under that contract?---It depends on whether

there was any other project or any other issue on at the time, remembering that I'd previously in a prior case given evidence to helping them with a monitoring project that they had going.

All right?---So I don't know what the timing of that was.

Okay. Well in relation to the monitoring project you had at the time, what were you monitoring?---No, I wasn't monitoring anything.

10 Sorry, what was, what was the monitoring project you're referring to?
---Kings were, were looking to develop their monitoring business. By monitoring, that's monitoring of security alarm system. And my prior history was as a manager of ADT we did a lot of that so I understood that business very well. So they engaged me at some stage and I don't recall the dates to assist them or to give some advice in that area.

Okay. And did you, did you render an invoice in relation to that?---I don't recall. I'd have to go back to my invoices.

20 THE COMMISSIONER: Well you wouldn't do work for them, genuine, legitimate work without rendering an invoice would you?---I typically wouldn't no.

MR STRICKLAND: But you're saying you sometimes would?---No, not that I recall. But I don't recall, I don't recall the invoice. I don't, I mean I'd have to go back to the records to look for that invoice.
Have you, have you done that?---No, I haven't.

30 Why not?---Why would I?

Well you - - -?---You haven't asked the question before now.

I thought you said just earlier that you have said in an earlier hearing you had been asked about this matter and you had given evidence about the monitoring?---Yeah.

40 So having been given that evidence why haven't you gone and looked for records to confirm that?---Because there was no outstanding question. Why would I?

I see?---It doesn't consume all my time. My clients consume my time.

Okay. If you had, if you had rendered an invoice in relation to the monitoring project, you would have been paid by cheque or bank transfer wouldn't you?---I would, I would think so.

Well is there any - were you ever paid in cash by Kings for legitimate work you had done for them?---Not that I recall.

When you say not that you recall if that had happened, if you had been paid in cash for work you had done by Kings that's something you would have recalled isn't it?---I would think so. But I don't recall it.

The fact is that if you were to engage in legitimate work for Kings the process that you would have adopted as a – would be to render an invoice and then for them to pay you in – for that invoice by way of cheque or bank transfer. That's correct isn't it?---Typically yes.

10

When you say typically when has there been an atypical case with Kings where you did legitimate work for them and they paid you by cash, when? ---I can't recall any. But there may have been a case where I've done legitimate work for them and they haven't paid me.

That's not what I'm asking you. I'm asking you name one case where you did legitimate work for Kings and they paid you in cash?---I don't recall any.

20

But did you favour Kings in any way in the tender process for the Concept 4000 tender?---No.

Did you favour Kings or assist Kings in any way – I'll withdraw that. Did you favour Kings in any way or look after their interests in the commissioning of the project and the implementation of that contract?---No.

30

Excuse me. Can I just show you a contract, I'm sorry, I beg your pardon, a letter from Kings to Mr Byrne, and I'm not suggesting you have read this contract – I beg your – read this letter before, but were you aware, excuse me, that in April 2007, Kings put in a bid for, to do some security work in relation just to the Bankstown Campus?---I, I don't recall it.

I tender that letter from Kings to UWS dated 30 April, 2007. I won't, if I could just tender, there's a series of documents relating to this and it might be more convenient just to tender it.

THE COMMISSIONER: All right. The letter from Kings to Mr Byrne of 30 April, 2007 will be Exhibit 32.

40

#EXHIBIT 32 - LETTER FROM KINGS SECURITY TO UWS RE ACCESS CONTROL SECURITY SYSTEM DATED 30 APRIL 2007

MR STRICKLAND: Thank you. You'll see, if you, if you just look at Exhibit 32, you've got it, you'll see that – and I appreciate you didn't know, say you didn't know about it, but that involved, according to the letter, if

you go over to page, page 4, it involved a quote for Concept 4000 control panel. Do you see that?---Sure.

What, and I, I accept you don't know anything about this letter, but what did you understand was the Concept 4000 equipment?---UWS had purchased a whole bunch of products from a manufacturer or wholesaler or whoever, prior to my engagement.

10 And who was that wholesaler, do you know?---Couldn't tell you off the top of my head.

Okay. Right?---They had a storeroom full of equipment and ah, to the best of my recollection, the contractor who was going to be appointed for this project, and it ended up being Kings, had to draw down on that, draw down on that stock of product.

20 Okay. Thank you. And so did you understand that at some stage, that Kings initially did some work limited to one particular campus and then they entered into a contract where they had to do the same work for all existing campuses?---No, I'm not, I'm not, not aware of that.

Okay. I'll show you another, I'll show you your proposal. Sorry. So do you recognise this as your document that you've tendered for the consultancy to advise on the installation and maintenance of access equipment for all UWS campuses?---Ah, yes.

30 Could I just take you to page 83 for a moment and also page 91. I just want to, I just want to look at both of those. It's a reference to your team and then your staff?---Ah hmm.

Apart from you, was there any other full-time worker at SCI?---No, not at that stage, no.

40 So why, if that's, why did you write, "Our multi-facet staff, both full-time and contractor, for total experience exceeding a hundred man years"?
---Ah, prior to that I'd, I had other people working with me on a, not on a full-time basis but on a contract basis and since then I've had staff, oh, not staff but yeah, I have had staff in fact as well but ah, but ah, contractors working with me on a part-time basis.

But in relation to this proposal during 2007, was that a misleading statement?---No, I, no, I don't think it was misleading, I, I, I don't know who was working with me back then so- - -

I thought you said no one else was working with you?---Well, no one was on staff.

But it's not a misleading statement?---No, I wouldn't think so.

THE COMMISSIONER: Where, where is that phrase, please, Mr Strickland?

MR STRICKLAND: Page 91.

THE COMMISSIONER: 91.

10 MR STRICKLAND: Under the heading, Our Staff.

THE COMMISSIONER: Thank you.

MR STRICKLAND: The third line. Now, if I can show you another document.

THE COMMISSIONER: Are you tendering that?

MR STRICKLAND: I beg your pardon, I'll tender that.

20 THE COMMISSIONER: Exhibit 33 is the Security Consultants International proposal to UWS of June 2007.

**#EXHIBIT 33 - TENDER FOR CONSULTANT TO ADVISE ON THE
INSTALLATION AND MAINTENANCE OF ACCESS EQUIPMENT
FOR UWS COMPUSES DATED JUNE 2007**

30 MR STRICKLAND: Is that Exhibit 33, Mr Commissioner?

MS LONERGAN: Yeah.

MR STRICKLAND: So, so do you recall receiving this letter from Mr Johnson advising that you had been successful for the tendered price of \$14,985?---Vaguely remember it.

I tender that document.

40 THE COMMISSIONER: The letter from UWS to Mr Paul of 27 June, 2007 is Exhibit 34.

**#EXHIBIT 34 - LETTER FROM THE UNIVERSITY OF WESTERN
SYDNEY TO SECURITY CONSULTANTS INTERNATIONAL
REGARDING SELECTIVE TENDER FOR UWS CAMPUSES**

MR STRICKLAND: I'll show you a, some emails. I'll just take you to page 115 – I beg your pardon – page, page 115, 114, 113. I'm not suggesting in relation to the emails at 115 or 114 you were copied into them, but do you recall organising a dinner for the ASIAL conference?---This says I did, I don't recall it, but yeah, I most likely did.

And what's, that's a large- - -?---Industry function.

- - -industry dinner that's held annually, is that correct?---Yeah.

10

And do you recall paying for the people on the table?---I, I don't recall the event so I don't recall paying and I don't recall not paying. It was back in 2007 again.

But if you just go to the email on page 114, do you remember that there were, there was Mr Shepherd and Mr, I know it doesn't say those names but it says, "Our table will be Sydney Ports." Did Mr Shepherd or Mr Meijer attend?---I have no idea. I don't recall who attended.

20

In any event, you don't deny organising a dinner for a number of people as referred to in this email, is that right?---Well, it wasn't my, my email, that was from Maurice.

I know that, I understand that, I'm just asking, do you accept or deny that you attended a dinner - - -?---Oh, I accept I attended.

And you arranged it?---With who?

30

Well, with anyone?---That was Maurice arranging that.

Well, just have a look at the email on 113 and I appreciate that it's not your email, I'm not suggesting it is but there's a reference to, from Peter Roche to Charlie Diekman saying I just want to know how Dan plans to extract the cost of the table out of us on the night. That's suggesting you had some, some role in either planning it or making arrangements for payment?

---Yeah, that suggests also, well, potentially suggests also that I paid for the table, I don't, I don't recall it. It looks like it's Maurice from Austar's table and he was inviting us.

40

Okay. But you don't recall whether you paid or not, is that right?---I'd need to go back to my invoices, I may have invoiced Austar, I have no idea, I can't remember.

I tender that email chain ending on 5 June, 2007.

THE COMMISSIONER: Yes. The string of emails ended on 5 June, 2007 being an email from Mr Roche to Mr Diekman is Exhibit 35.

**#EXHIBIT 35 - EMAIL STREAM COMMENCING WITH EMAIL
FROM MR ROCHE TO MR DIEKMAN RE ASIAL DINNER DATED
5 JUNE 2007**

10 THE WITNESS: That, well, just looking at the screen, that's actually an
Austar table. It's Maurice saying on our table will be Sydney Ports, TPG
and so on and so forth and, and names me. So it's not my table, I didn't
organise it.

THE COMMISSIONER: Mr Paul, just answer the questions, it's not for
you to comment?---Oh, right.

MR STRICKLAND: Can I just show you some more emails on the same
subject. You just, how many pages have you got there, just two?---Two
pages, 296 and 297.

20 Thank you. I just want to suggest to you that that dinner occurred, took
place on 11 July, 2007?---Organised by Austar, yes.

I tender that email.

THE COMMISSIONER: Yes, a string of emails ending with an email from
Mr Roche to his wife on 2 July, 2007 is Exhibit 36.

30 **#EXHIBIT 36 - EMAIL STREAM COMMENCING WITH EMAIL
FROM MR ROCHE TO MS ROCHE REGARDING ASIAL DINNER
DATED 2 JULY 2007**

40 MR STRICKLAND: I'll just show you a final string of emails in relation to
that. And if I could just get you to have a look at the email on 313 and 314
from Peter Roche to you, copying Mr Diekman thanking you very much for
a great evening of entertainment and networking, sincerely appreciate the
invitation to dine alongside you and your guests, no doubt Charlie will
return the experience Harry's Café de Wheels, now we've just got to get our
other guests to pay for it. Does that suggest that at least MR Diekman and
Mr Roche attended that dinner at your invitation and at your expense?
---That wasn't my invitation and my expense. It was, it was - - -

Okay. So you deny that do you?---Sorry?

You deny that?---Yeah.

You deny it was your invitation and your expense?---I believe it was
Maurice's. I don't believe it was my table.

Okay?---It says to Maurice and Dan. It doesn't say just to Dan.

But it appears from that email that it was in fact a jointly organised and paid for table, that is joint with yourself and Mr Ciot?---I, as I said I don't recall paying for it, I don't recall not paying for it. I don't actually recall attending it, but I would have been there. I just – it's too far, too long ago, five years ago.

10 I tender that.

THE COMMISSIONER: The string of emails ending with the email from Mr Paul to Mr Diekman of 12 July is Exhibit 38, it's 37, I beg your pardon.

#EXHIBIT 37 - EMAIL STREAM COMMENCING AT THE TOP WITH EMAIL FROM MR PAUL TO MR ROCHE AND MR CIOT SENT ON 12 JULY 2007

20

MR STRICKLAND: Now I just want you to, I'd like you to go back to, if you could just have Exhibit 36 and 37 and also at the same time be shown Exhibit 1, D21(a). Now if you just look at 21(a) and this relates to the tender for the University of Western Sydney, you'll see that there was a pre-tender briefing and a question and answer session at 9.00am on Wednesday, 11 July, 2007. Do you see that?---Yes.

And later that night it was Mr King and Mr Roche attended that dinner with you.

30

THE COMMISSIONER: Mr King?

MR STRICKLAND: I'm sorry, thank you, Mr Diekman and Mr Roche attended that dinner with you that night?---Attended the dinner on the same table as me, not with me.

Well they've written a letter thanking you?---Thanking Maurice.

I beg your pardon?---Thanking Maurice.

40

Did you see your name there as well?---It says /Dan. It doesn't, it doesn't mean I arranged it.

That Dan is you isn't it?---I assume so.

So do you accept that they thank you and Maurice or just Maurice?---Well they're predominantly thanking Maurice if it was Maurice that paid for the table.

THE COMMISSIONER: Are you making that up?---No I'm not making anything up.

I thought you didn't remember who paid for the table?---No I'm saying if it was Maurice that paid for the table.

Just stick to the facts and not assumptions?---I am sticking to the facts.

10 MR STRICKLAND: So Mr Paul, do you, did you talk at the gala awards dinner about the UWS contract with you held on the same day?---I doubt I would have.

Did you disclose to UWS, to anyone in UWS your relationship with Mr Diekman and Mr Roche?---Oh, I would have spoken to - - -

Not what you would have done, I'm asking you what you did do. Did you disclose not what you would have done, did you?---Not in writing.

20 THE COMMISSIONER: Did you do it orally?---Yes.

To whom?---To the tender, to people on the tender board.

You're making that up now?---No.

Well to whom did you do it?---Well Adam, Adam Byrne would have been one of the people there.

30 Not would have. To whom did you do it?---I'd need to think about who was on the tender board.

Well think about it and tell me?---Okay.

You're thinking about on the tender board because you're reconstructing as to who you spoke to. You have no independent recollection of who you spoke to do you?---Individuals?

Yes?---No.

40 No.

MR STRICKLAND: You certainly, you certainly didn't disclose to anyone from UWS that you had a gambling relationship with Mr Diekman did you?---No.

You certainly didn't disclose that you'd been paid money by Mr Diekman in relation to gambling debts did you?---It had no relevance.

That's not my question. Can you answer the question?---No.

And, and you did that and you deliberately did not disclose that, did you?---
No, it wasn't deliberate, it was no, there was no relevance. If, if, if to me it
felt that there was relevance I would have definitely disclosed it. It was
irrelevant, it was, it was a completely separate thing that had no bearing on
the outcome of the tender or on the outcome of them tendering.

10 THE COMMISSIONER: Mr Diekman owed you money, did he?---I don't
know at the time.

If he owed you money, this contract would help him pay it back?---If you, if
you stitch the two together like you're endeavouring to do, yes, it would, but
that's not the case.

What's not the case?---I never took money from, from Kings in relation to
ah, helping or assisting or asking clients to make decisions on whether
Kings win jobs or not.

20 While Mr- - -?---I've never done that.

While Mr Diekman owed you money, tens of thousands of dollars at times,
it would have been in your interest to ensure that Kings had the contract to
do work so that Mr Diekman would be in a financial position to be able to
pay you back?---Not at all.

What's wrong with that?---(No Audible Reply)

30 What's, what's, why not at all?---Because the, the relationship I had with
Charlie has absolutely no bearing whatsoever on the decision-making
processes in relation to tenders.

Yes, Mr Strickland?

MR STRICKLAND: As at the time of the UWS contract, before it was
awarded, you can't say whether Mr Diekman owed you money at that time
or not, can you?---Couldn't tell you, I don't recall, no.

40 But on your evidence, given the amount of times you gambled with him and
the amount of times you won, there is a distinct possibility that he owed you
many thousands of dollars at the time of this contract, isn't there?---I don't
recall how much, no, I don't, I don't recall.

Your evidence is this. You don't recall how much. Correct?---Correct.

You don't recall when the bets were. Correct?---Correct.

You don't know, you don't recall when he paid you the money. Correct?

---The precise dates, no.

THE COMMISSIONER: Or approximate dates.

MR STRICKLAND: You don't, well, you don't, you can't give us months or years, can you?---I can give you years, I've already given you years.

10 You don't remember, you've said you can't remember on occasions how the, how the, the form in which he paid you back?---Or whether it was a different bet, but that nullified it.

Yes, indeed?---That's correct.

So it therefore follows from that alleged lack of recollection that at any given time in 2007, 2008, 2009, 2010, he owed you many thousands of dollars. Correct?---I wouldn't think so, no.

20 Well, that follows, sir, from your evidence, doesn't it?---No, I don't believe so.

Well, you are denying your own evidence?---No, I'm not. No, I'm not. I don't recall the dates and I don't recall the amounts so how can you possibly put together that there was tens of thousands of dollars or whatever it is you just stated that were a constant flow? There wasn't.

THE COMMISSIONER: For how long did Mr Diekman owe you \$80,000, for how long?---From 2010 till the time he paid it off and I don't recall the date that he paid it off, sorry.

30 MR STRICKLAND: In May 2012 you gave evidence at this hearing that you owed Mr Diekman \$30,000. Do you remember that?---Yes.

You haven't paid him back that, have you?---Not all of it.

So it follows you have paid some of it back. Is that right?---I might have paid 5,000 of it back, yes.

I'm sorry, you, I'll play the answer back if you like?---You can if you wish.

40 No, but listen. Your answer was, "Not all of it", wasn't it?---Correct.

So what part of it have you paid back?---\$5,000.

When?---A few, a couple of months ago.

You were about to say a few weeks ago, is that right?---Yeah, well, a few weeks ago, a couple of months ago.

And, and how did you pay that money back?---In cash.

Right. And did you withdraw money from your bank account- - -?
---No.

- - -on that occasion? How did you have the \$5,000 cash on you?
---From betting.

Betting with whom?---Charlie, previously.

10

No. Oh, I see, you had \$5,000, what, stored somewhere in your property?
---Yeah.

Is that right?---Yes.

And then you paid him that?---Yes.

How long had you kept the \$5,000 in your property?---I've always got some
money on my property.

20

And so how was it that you, did you physically give the money, the \$5,000
to Mr Diekman?---Yes.

And what, where did you meet?---Ah, down at a pub.

Right. About two months ago?---I don't know, it was about six to eight
weeks ago, yes.

Okay. And did you discuss this case?---No.

30

Not at all?---Not at all.

Not a word?---Not a word.

So you went, met him down at the pub, you gave him \$5,000 cash?
---Ah hmm.

And then you left. Is that right?---No, we, we had a drink.

40

Oh yeah. How long, how long did you have a drink for?---I don't know, an
hour.

So you, you still owe him \$25,000 do you?---I think so.

Well - - -

THE COMMISSIONER: What do you mean you think so?---Well, I don't know whether there's any other bets on the back end of that that have reduced it, I'd need to, I'd need to think about that.

MR STRICKLAND: And you intend to pay him that \$25,000 do you?
---Will I?

Yes, you intend to pay him the \$25,000?---Yeah, absolutely, yeah.

10 When?---Oh, when I get, when I get the money, when this thing's over.

THE COMMISSIONER: But you earn a lot of money each year don't you?---I do.

Almost a million or a million dollars a year?---Yeah, between eight, 800 and 950, yes.

Yeah, thousand dollars a year?---That's correct.

20 So why can't you pay, what are you waiting for to pay Mr Diekman the \$25,000?---The damage that this, this case has done to my business is enormous, absolutely astronomical so the, the, the money I'm forking out for legal bills and stuff comes in front of any paybacks and bets.

MR STRICKLAND: Just go to Exhibit 37, do you have that?---Oh, I don't know. Which one's Exhibit 37? Yeah, I do.

30 In the top email you state, you acknowledge the thank you very much and you say absolute pleasure. You say just for, for laughs I think the four of us should go and do lunch at that place, Kings' shout and then you say, "Hey, I'm a consultant." Well, what do you mean by that?---Oh, well, it's a lunch so consultants go to lunch, that's what I meant by that, it's a joke as is the name of the restaurant.

THE COMMISSIONER: And why should Kings pay?---I have no idea, I just threw it in there as I do.

Because they owe you?---They don't owe me anything.

40 MR STRICKLAND: Yes, thank you, finished with it. I just want to show you another couple of emails. Now, this is an email from yourself to Mr Byrne and you email him saying, "this was on the Inner Range website, I thought it was interesting, I believe the one for Health was done by Kings: and what you've, and what you've done is you've attached a case study which is at the back of the documents you've got which is from the Inner Range website for the Royal Prince Alfred Hospital. Do you see that?
---Yeah, I can see that, yeah.

And, and you can see that at the bottom of that page it's got the site as it was on 24 August, 2007, do you see that?---Yeah.

So do you recall sending to Adam Byrne a website link - - -?---No, I can see that - - -

- - - to the Inner Range - - -?--- - - - email and I don't recall the email - - -

- - - website?--- - - - no.

10

You don't deny you did that?---I don't deny I did that, no.

On what basis did you believe that Kings had been involved in the security for the Royal Prince Albert Hospital?---I don't know, maybe they told me that, I'm not sure. I don't, I don't know the details surrounding that.

And do you - now, I'll tender that in a moment but can I just show you another document and this is from Peter Roche, this is earlier in time, also 9 August but from Peter Roche to you, he's written to you, "Dan, please
20 find below a concept case study on the RPA Hospital which Kings did all the work"?---Oh yeah.

Okay. And then you've written back and said, "Thanks, I will blind copy you on an email." Do you see that?---Yeah.

And then if you go to the first email I gave you, which has page 541 on it?--
-Ah hmm.

30 You will see on the second page there's what's called a metadata which is basically a computer technician accessing the computer as to who, to whom emails were sent and the time?---Sure.

And you'll see on the second page the name Peter Roche, Kings Security in relation to the email, in other words that demonstrates that Mr Roche was copied into the email that you sent Mr Byrne at, at 20.16, 8.16 and 41pm.

THE COMMISSIONER: On 9 August.

40 MR STRICKLAND: On, thank you, on 9 August?---Yeah, I see the email there. I see where Peter Roche is - - -

Thank you. If you just give me that document back I'll just, I'll just assist you and I'll mark it for you?---Sure.

In other words I'd like you to assume that according to the metadata you have, as you said you would - - -?---Yeah.

- - - you have blind copied the email that you sent to Adam Byrne to Mr Roche. Now why, why did you send an email to Mr Byrne linking the Inner Range website and stating, "I believe the one for Health was done by Kings." Why did you do that?---To tell Adam Byrne that that was a case study of a project done by Kings.

At that stage the contract had not been awarded had it?---I don't know.

Well I'd like you to assume for me it had not?---Right.

10

Will you make that assumption?---Right.

Okay. And now Inner Range was the supplier of the security equipment for this contract wasn't it?---The manufacturer.

The manufacturer. Correct? Is that right?---Yes, that's correct.

So by sending that email to Adam Byrne you were promoting Kings weren't you?---I was advising him that they'd done a previous job.

20

Yes. But the purpose of you giving that advice was to promote Kings as someone that could do the job for the UWS tender wasn't it?---No, I don't know. I don't know the context in which it was sent, whether Kings were only don't work for, for UWS at that time or not, I'm not sure.

Well the context that I've shown you is that there was a, there was a tender process going on at that time?---Right.

30

There was a tender meeting in July 2007 and the contract was awarded some months after this email which I will show you?---Right. Right.

But I'll ask you to assume. So that's the context, it was a tender process. Kings was one of the tenderers?---Right.

So in that context I want to suggest to you that the only purpose in sending this email saying that this is on the Inner Range website, that is the manufacturer of the products that you were going to be using, UWS - - -? ---That they were already using, yes.

40

Yes. And that here's Kings they've done another large project for the hospital and you were doing that in order to promote Kings as the tenderer for this contract?---As a benefit to the client so they understood that there was a contractor out there that had done big jobs.

THE COMMISSIONER: It might be to the benefit of the clients, but it was to the benefit of Kings too wasn't it?---Well more so for the benefit of the client I would have thought.

Well, wasn't it to the benefit of the, of Kings as well?---Well, I don't know whether he, whether, it depends on whether Adam Byrne took that into consideration in his review.

MR STRICKLAND: We're talking about your purpose, not what he did, your purpose was to assist Kings in getting the contract?---No, my purpose was to make, make awareness to the client that there's a contract out there, a large project that Kings had done.

10 THE COMMISSIONER: Why did you tell him, why did you tell the client that Kings had done the project?---Because they were on the tender.

So you were trying to show that Kings- - -?---Had prior history of- - -

- - -were well-qualified, were, were, had the skills and experience to get the tender?---Well, had the, had the skill and experience, not necessarily to get the tender. Remember I'm not the, I'm not the decision-maker in this, there's a range of people involved in decision-making.

20 Well, skills and experience to do what, Mr Paul?---To do large installations with the Inner Range product.

Of the kind which was going to be used in this tender?---Yes.

And why did you blind copy Mr Roche?---So that he, he could see that I had done that.

Why make it blind?---Well, why make it open? It's- - -

30 Because you were, if you were making it open you would be showing your client that you had some relationship with Kings and were trying to benefit Kings?---Not at all.

Well, why did you make it blind?---Because it was an email from me to Adam Byrne and Peter Shepherd to show them a case history.

Why did you want to conceal the fact that you were sending Peter Roche a copy?---Because it wasn't Peter Roche's email, it was, it was, didn't have, it was of no consequence.

40

It was no consequence to Peter Roche?---No.

You don't think it would, Peter Roche would have been pleased with you because you were sending him, you were sending UWS- - -?---Well, he may have been please with me but it doesn't, so what?

Well, isn't that the whole purpose of doing this?---No, it was just, it was to take a case study to demonstrate to the client that there was a contractor out there that had the capabilities to do the job.

Yes, Mr Strickland.

MR STRICKLAND: In Exhibit, could the witness be shown Exhibit 1, tab 24. Now, this is the tender report for the UWS Concept 4000 tender. If you go to page 586 you can see you are on the Tender Evaluation Panel?---Yes.

10

And you notice that the panel met on 14 August, 2007?---Right.

And you notice down the page it says at the close of the tender, it's about three-quarters of the way on the page, which was 2.00pm on 8 August. Do you see that?---Yes.

Under the heading – do you see that?---Yes.

So this blind email – I withdraw that. This email that you sent Adam Byrne, copy Peter Shepherd, was the day after the tender closed- -?---Yes.

20

- - -and before the first meeting of the Tender Evaluation Panel?---Right.

And you sent it to, apart from Adam, you copied it to Peter Shepherd- -? ---Yes.

- - -who was an independent, who was described in the evaluation panel as an independent Sydney Ports Corporation?---Right.

So undoubtedly you were seeking to influence Mr Shepherd on the panel about one of the tenderers, weren't you, that was the purpose of sending the email?---No, it was to- - -

30

To influence, i.e. to affect his mind as to what he thought of one of the tenderers. That must follow, mustn't it?---No.

40

So in other words, well, if you disagree with that, then you are therefore saying that you, it was not your purpose to affect his mind one way or another about Kings?---It was to let him know that Kings had done a large project. End of story. There was no, there was no sinister influencing going on.

But you're jumping ahead, Mr Paul. I'm simply asking you to take the logical step which was you sent it in order to affect his mind, i.e. influence him- -?---No.

- - -about a tenderer?---No, I disagree.

Mr Paul, you are sitting here giving evidence, denying, repeatedly denying the undeniable, aren't you?---It's not undeniable. The intent of the, the intent of that sending of that email was not for that purpose, it was just to let him know, let them know that there was a contractor that had done a large project. So what?

You are repeatedly denying incontrovertible propositions aren't you?---No.

10 Are you honestly trying to tell the truth as best you know it?---Yes, of course.

Now could I just add to D24, Mr Commissioner, appendices which are actually attached to that evaluation report.

THE COMMISSIONER: You mean they're attached but not part of the bundle?

20 MR STRICKLAND: That's correct. They should have been part of the original tender for that document.

THE COMMISSIONER: Well they should be inserted.

MR STRICKLAND: Can they be inserted?

THE COMMISSIONER: Yes.

30 MR STRICKLAND: Thank you. I'll show you another document, please. And in addition to that could I also, this is also, could this also be inserted as part of D - - -

THE COMMISSIONER: Just as long as all interested parties know precisely what's happening.

MR STRICKLAND: Certainly. The, what I'm seeking to insert are pages 615 to 645 which is the scoresheets of the evaluation panel in relation to the different tending companies.

40 THE COMMISSIONER: All right. Copies will be made available to any person who wants them.

MR STRICKLAND: Certainly, yes. Copies are available.

MR LLOYD: Same exhibit?

MR STRICKLAND: It's the same, yes that's right, the same exhibit D24. Now could I show you this document, please.

THE COMMISSIONER: Which, there's the appendix 1 and there's the checklist.

MR STRICKLAND: That's correct. The checklist should go - - -

THE COMMISSIONER: Well which is the - I beg your pardon?

MR STRICKLAND: The checklist should go after appendix 1.

10 THE COMMISSIONER: Yes, so when you say this document which one are you referring to? You said I'm showing you this document.

MR STRICKLAND: I beg your pardon, Mr Commissioner, this is totally separate document. I just inserted those - - -

THE COMMISSIONER: I see. This is just being inserted - - -

MR STRICKLAND: Just being inserted.

20 THE COMMISSIONER: - - - and you're not asking any more questions on it.

MR STRICKLAND: No, that's correct. Now do you recognise this document? Do you have this Mr Commissioner?

THE COMMISSIONER: Yes, thank you.

MR STRICKLAND: First do you recognise your signature at the bottom of this document?---Yes, I do.

30 I tender this document headed a Code of Conduct dated 14 August, 2007.

THE COMMISSIONER: Exhibit 39 is the Code of Conduct dated 14 August, 2007, oh I'm told it's Exhibit 38.

MR STRICKLAND: 38.

THE COMMISSIONER: Yes, it's 38.

40 MR STRICKLAND: Have I not tended, I'm sorry. I beg your pardon, I'm sorry it's my mistake. I'm told I haven't tendered, I have not tended the previous blind copies.

THE COMMISSIONER: I'm not sure how, sorry, I'm getting, well I have, Exhibit, can we just start with Exhibit 36, is a string of emails which ended on 2 July, yes, 2 July 2007.

MR STRICKLAND: That's right.

THE COMMISSIONER: Exhibit 37 is the string of emails ending on 12 July, 2007.

MR STRICKLAND: That's correct. That's right. And, and - - -

THE COMMISSIONER: And I have Exhibit 38, 9 August, which you didn't tender, but I took it for granted that you would.

10 MR STRICKLAND: That's right. I, I tender that.

THE COMMISSIONER: Well, the Exhibit 38 should be the string of emails, the last of which is from Mr Paul to Mr Byrne of 9 August, 2007 and Exhibit 39 is the Code of Conduct of 9 August, 2007.

MR STRICKLAND: Thank you. Ms Lonergan tells me that just to clarify Exhibit 38 there's a, there are in fact two emails on 9 August, 2007 and they perhaps should be consolidated into one so Exhibit 38 should go from pages 539 through to 541 plus some annexure.

20

THE COMMISSIONER: Well, from 539 - - -

MR STRICKLAND: Yes.

THE COMMISSIONER: - - - onwards?

MR STRICKLAND: Yes.

THE COMMISSIONER: Yes.

30

MR STRICKLAND: Thank you.

THE COMMISSIONER: And that's Exhibit 38.

MR STRICKLAND: Yes.

THE COMMISSIONER: Yes. Those together will constitute Exhibit 38 and Exhibit 39 is the Code of Conduct.

40

#EXHIBIT 38 - BUNDLE OF EMAILS BEGINNING WITH EMAIL FROM MR PAUL TO MR ROCHE REGARDING CASE STUDY DATED 9 AUGUST 2007

#EXHIBIT 39 - CODE OF CONDUCT SIGNED BY MR PAUL DATED 14 AUGUST 2007

MR STRICKLAND: That's right. Now, in this document, this Code of Conduct which you signed on 14 August, 2007, the second sentence states, "I have no relationships commercial or otherwise with any of the tenderers or individuals" and then you state, "I have previously awarded tenders and denied tenders to Kings, SECOM, Austek, SNP". That's a misleading statement isn't it?

10 THE COMMISSIONER: Which one?---No, not, not the way I meant it, no.

MR STRICKLAND: I'll be more precise. It's a misleading statement to say you have no relationship commercial or otherwise with Kings?---No.

But you did have a relationship with Mr Diekman didn't you?---A friendship but I had a friendship with all of those.

But you had a, well, I'm just focussing on Kings. You had a relationship with Mr, you had a financial relationship with Mr Kings which involved - - -

20 THE COMMISSIONER: Mr Diekman.

MR STRICKLAND: I'm sorry, I beg your pardon, with Mr Diekman, involving him paying you gambling debts from time to time?---Well, I don't know whether I did at that point in time.

THE COMMISSIONER: Well, it had been going on for, since the beginning of 2007 hadn't it, at least?---No, as I said, it starts and stops, it's not an ongoing streaming flow of money.

30 You had already started gambling with Mr Diekman and he'd already started owing you money when you went to Las Vegas in 2007, early in 2007. Is that not right?---I don't know the dates, no. I can't confirm that.

MR STRICKLAND: Well, you do know the date because I've shown you Exhibit R1 which is an invoice dated - - -?---That was in January.

- - - 25 January, 2007, that's right?

40 THE COMMISSIONER: Exactly?---Yeah, that, that was paid, right, so that was done and dusted, there was no ongoing there was there?

MR STRICKLAND: But your evidence is is that you, is that, that was not a one-off gambling debt paid by him, that's your evidence?---No, but I can't, I can't categorically state that there was on going debt at this point in time so I can only assume that I was telling the truth at this point in time that there was no ongoing debt at that point.

THE COMMISSIONER: You had had a series of debts, of bets, with Mr Diekman since at least the beginning of August, since at least the beginning of 2007, is that not right?---Sorry, repeat the question.

You had a series of bets with Mr Diekman starting from the beginning of 2007. That doesn't mean to say that you had bets every day but from time to time from the beginning of 2007 till the present day, till the day of this hearing you have been betting with Mr Diekman from time to time?---From time to time, yes.

10

Yeah?---That doesn't mean that at this point in time that there was an ongoing bet at this point.

Yes, Mr Strickland?---So that's not misleading, no.

But you're not being asked whether you had an ongoing bet, you were asked in this, you're saying in this document you had no relationship?--At that point in time.

20

MR STRICKLAND: So can I put it this way then. If in July '07 you had had a gambling debt paid to you by Mr Diekman, on your logic in answer to the Commissioner's questions, you wouldn't have disclosed it because it wasn't at that point in time. Is that right?---Well, it depends on whether, if it was paid out, if, if there was no ongoing debt there- - -

Yes---?- - -then there is no relationship, there's no, there's no commitment there, no.

30

Well, did you – now, in relation to this Concept 4000 contract, you knew that the systems that were going to be used by UWS were going to be manufactured through the company, Inner Range. Is that right?---They were already, they already owned the stock so yes, they were an Inner Range product.

Okay. And if you just, if you go to, back to D24 again, please.

THE COMMISSIONER: D24?

40

MR STRICKLAND: Exhibit 1, tab 24. Go to page 588. I should first say, you're familiar with this report, aren't you, which begins at 583?---Vaguely, I don't recall it but- - -

You prepared it, didn't you?---I beg your pardon?

You prepared the report?---I don't recall preparing it but I don't deny preparing it. I don't, I don't recall it. No, I don't recall it.

If you go to 588 there's a table which is quantitative assessment?---Right.

And at the, at the bottom of that table, below the table in the last paragraph it says that TEC were also provided by Daniel Paul, independent consultant, et cetera?---Engaged to assist- - -

That's right---?- - - the University, yeah.

With a list of qualified technical persons for each company?---Right.

10 And the list provided the number of accredited Concept 4000 personnel each company engages?---That's right, yes.

And this, and when you say that's right, this is jogging your recollection. Is that right?---That's correct, yes.

So this assisted the TEC in its assessment of the key personnel, and this list is attached as appendix 1 of the Tender Evaluation Report?---Yes. Leo, the manager of the, the, the tender chair asked for a list of, of accredited people within each company that was shortlisted.

20

And if you go to appendix 1, has that been provided to you?---Where's appendix 1, page- - -

There's no page number given to it?---Oh.

It's at the end of the, it's after page 600?---Ah, yes, I've got it, thank you, thanks.

30 I'll just take you to page 600 before I take you to appendix 1, but does that jog your memory that you, together with three other persons, being Peter Shepherd, Harry Stephenson and Leo Johnson, recommend awarding the contract to Kings for a sum of \$1.044 million?---That's what it says there. I don't, I haven't signed that page though.

I understand it doesn't have your signature?---No.

Only got one signature. But, but you don't, but you accept that you were part of the team that made that recommendation. Is that correct?---I was part of the assessment team, yes.

40

That made that recommendation. Is that correct?---Ah, I guess so, yes.

Well, I'm not asking you to guess?---Well, I haven't signed any of the paperwork.

I know you haven't signed it, but I'm asking you nevertheless, notwithstanding the absence of a signature, whether you accept that you

were part of that tender evaluation team or panel that made that recommendation?---I was on the panel, yes.

And did you make the recommendation?---I don't recall.

THE COMMISSIONER: With the others?---I don't recall the detail of it. As I said I don't recall the detail of this report.

10 You're not suggesting that you didn't make the recommendation are you?
---No. I'm suggesting I was part of the tender evaluation panel.

That made the recommendation?---Well that ultimately, the panel, the panel didn't make the recommendation, the tender Chair made the recommendation.

MR STRICKLAND: You seem to – Mr Paul?---Yeah.

You seem to be very resistant to admitting - - -?---Because I don't recall.

20 I haven't finished the question?---Sorry, I'll wait.

You must allow me to finish the question?---Yep, no worries. I'll wait.
Yep.

You seem, do you agree you seem to be very resistant to admitting the words on the face of this document that you were part of a team that recommended Kings be awarded a contract in the sum of \$1.044 million?
---Yes, because I don't recall doing this report.

30 I see. But you recall being a security consultant on UWS?---Yes, yes.

You do remember that?---Yeah, absolutely.

And you remember Kings being awarded the job?---Yes.

And, and do you remember saying I don't recommend Kings, I recommend someone else, but Kings nevertheless getting the job?---No, I don't recall, I don't recall any of those meetings.

40 THE COMMISSIONER: You were the security consultant throughout the process from the time that you were appointed I take it?---Somebody else wrote the tender specifications. From the time I was appointed I was the security consultant, of course.

And as security consultant you participated as part of the evaluation panel?
---Correct.

And as security consultant you were expected to participate in the decision as to whether a particular tenderer should be awarded the contract?---Not necessarily. In many occasions I'm just the technical advisor and I'm not sure that, that may have been the case here.

Even though your name is shown as one of the people who are expected to sign off the recommendation?---Yes. But I don't see my signature there.

10 I know that. So you are saying are you that you do not know whether you formed part of a decision making body that made the recommendation that we see at page 591?---I don't know that I was a scoring member of the, of the panel, correct.

I see?---I may have been just the technical advisor.

You may have been?---But I don't recall, that's right. I don't recall putting this report together. Certainly not the numbers in it.

20 I thought you said to me in an earlier answer to a question that you were the security consultant who is expected to participate in the decisions of the evaluation panel?---No, they were your words, Commissioner.

They were my words by you agreed with it?---I don't recall agreeing with it, but you can check that.

You don't recall. All right. You may be right. The transcript will see.

30 MR STRICKLAND: So getting back to, getting back to appendix 1 and what is recorded on page 588. Do you recall as recorded on page 588 providing a list, this list of accredited Concept 4000 professionals in relation to each of the potential tendering parties?---As a request from Leo, yes.

And the first page of appendix 1 indicates that Kings Security Group that there are a number of accredited technicians under the banner of Kings Security Group or under the heading of Kings Security Group who are accredited - - -?---That's straight off their website, yes.

40 By their website you mean Kings website?---No, no, straight off the manufacturers website.

Inner Range's website?---Inner Range's, yes.

Yes. Okay. And if you go to page 602, so in other words go beyond appendix 1. I beg your pardon, I'm sorry, I beg your pardon. Does your, is yours numbered, do you have page numbers?---It only goes to 600.

Okay. Have you got, have you got pages beyond 600?---615 it starts at next.

THE COMMISSIONER: There's the probity advisor report after 600.

MR STRICKLAND: Right. What I might do is could I just have your appendix 1 and I will - - -?---Sure.

THE COMMISSIONER: I do not have an appendix 1.

10 MR STRICKLAND: You don't have an appendix 1, I'll get you a copy. Have you got another appendix 1? Now, apart from appendix 1 I think there was another document that was inserted. What was that?

THE COMMISSIONER: Oh, yes, sorry, are we back to that? I might have put it in the wrong place, that would be my fault. No. I've found it. So where does this go, where's the right place for it to go, appendix 1. In tab - - -

MR STRICKLAND: Behind tab 24.

20 THE COMMISSIONER: Thank you.

MR STRICKLAND: If the witness and you, Mr Commissioner, could have a document which - mine, mine has pagination, I beg your pardon, it's got Tender Evaluation Methodology.

THE COMMISSIONER: In which document?

30 MR STRICKLAND: Well, I thought it was appendix 1, I haven't, I'm not, I haven't, I don't know what - perhaps we should ask for a five minute adjournment so I can sort out what documents have been handed up.

THE COMMISSIONER: Well, let's try and just do it now. What document are you looking for? Something that says what?

MR STRICKLAND: I don't know, unfortunately what I don't know is what's been handed up, I know what I've got.

THE COMMISSIONER: Well, I think I've got the same.

40 MR STRICKLAND: Could the witness please be shown, this is part of appendix 1, page 615.

THE COMMISSIONER: Well, it doesn't have pages?---It doesn't have pages on it.

MR STRICKLAND: It doesn't have pages, on the top right-hand side?

THE COMMISSIONER: No. So how many pages from the end?

MR STRICKLAND: Well, I beg your pardon? Mine says from pages 615 to 645 and I have assumed that everyone - - -

THE COMMISSIONER: Well, let's just focus on appendix 1. How many pages from the end of appendix 1.

MR STRICKLAND: I'm sorry, I didn't hear the question I'm sorry.

10 THE COMMISSIONER: If you just look at appendix 1.

MR STRICKLAND: I've got it.

THE COMMISSIONER: How many pages from the end of appendix 1?

MR STRICKLAND: Oh, this document begins on about the 14th or 15th page.

20 THE COMMISSIONER: Well, I don't think appendix 1 has got 14 or 15 pages, it's part of the other document.

MR STRICKLAND: Could I just have a five minute adjournment please because I don't know what's been handed up and I - - -

THE COMMISSIONER: Well, you can see what's been handed up, let's have a look at it now. Let's move on.

30 MR STRICKLAND: I'm trying to, Mr Commissioner, I just don't know what's been - well, that's what I want, this thing here. The document that I've just been handed has a page 615 on the top right-hand corner and goes to page 645 and that's what I'm referring to. Now, if you can go to page, look at page 615.

THE COMMISSIONER: And that is the checklist of duties of the tender committee.

40 MR STRICKLAND: That is correct and then if you go to page 616 it says "Attachment B, Technical Evaluation", do you see that?---(No Audible Reply)

Have you got that?---Yes, I do, yes.

And there's a number of different tenderers, that is the same page with a number of different tenderers and if you go to page 631 you will see the technical evaluation in relation to Kings.

THE COMMISSIONER: You see Kings' name at the top?---Yes.

MR STRICKLAND: Kings' name at the top?---Yes.

Now, is any of that your writing?---No.

Do you know whose writing it is?---I haven't got a clue.

Were you present when any of these or did you participate in any of these evaluations?---I don't recall these, this evaluation, no.

10 Okay?---It doesn't mean I wasn't there, it just - I don't recall.

I understand. And you'll see in the first box it refers to previous experience, that's one of the criteria, which has a weighted score of 26 per cent. Do you see that?---(No Audible Reply)

Do you see that?---What page?

631?---631, yes.

20 Score of 9?---Yes.

And under the comments it says, "One advanced software", I think it is, five advanced technicians, five certified trades, or tradies." Do you see that? ---Yes.

So in other words, Kings has got a high score, 9 out of 10, because of the certifications of their personnel, which is related to what I showed you in appendix 1?---Yes.

30 And then if you go to, if you go down to the fifth criteria which is headed Key Personnel, which has a weighting of 35 per cent, they have a score of 10?---Yes.

And under the heading it's got I think, "Comprehensive and extensive list, a number of Concept-accredited." Do you see that?---I can see it, I don't know, it's not my handwriting, I don't, I - - -

No, I understand that, but that must- -?---Yeah, but I can see it, yeah.

40 It relates to the fact that there's a number of its personnel who are accredited - - -?---Yes.

- - -Concept 4000. So in short, the, the long list of accredited Concept 4000 professional, certified Inner Range, was a critical factor in Kings being awarded the contract. Do you agree with that?---It appears to be, yes.

Yeah, from the scores?---Yes.

Now, could I just show you these documents. Now, I'm not suggesting you've seen this email, but you're referred to in it. Mr Roche has written to Mr Lopes referring to the UWS tender, and you'll notice it says, "We have submitted our tender response", and you recall earlier that that tender response closed on 8 August. Do you accept that?---Yeah.

10 And it refers to four other companies having submitted responses and it says, "We have also been informed it would be a powerful case in our favour if Kings, Kings could demonstrate they have the technical resources firepower to do/mange the project." Now, can I – are you the source of that information?---No.

Did you tell anyone, did you tell Mr Roche or Mr Diekman that if they demonstrated they had the technical resources then- - -?---No.

- - -they would be awarded or would probably be awarded the contract?
---Not that I recall, no.

20 By that you mean you might have done so and you don't recall?---No, highly unlikely that I would have done so, highly unlikely.

30 Now, if you go, it says there, "Below are four ex-Kings employees that all still work 100 per cent for Kings but as contractors, but as contractors. We've approached", it should be them, "About transferring their accreditation back under Kings for one month while the review takes place. And then they, and then names the four people. And then asks Mr Lopes of Inner Range, "Can we request your immediate assistance by having transfer take effect immediately so that we can then direct the review committee to the site?" Presumably that's the review committee of the Tender Evaluation Committee or the review committee relating to UWS. It then says, "Vin, it would also be in Inner Range's interest that you send an email to Daniel Paul communicating to him that IR, being Inner Range, does not have a site, does not have a site of this nature, et cetera, et cetera. I think you know what to say." And then giving him, giving you, Dan, Dan's email address.

40 And then it says, "Finally, Vin, the review panel meets on Tuesday." Now, this email is sent on the Thursday, 9 August, and the review panel met on 14 August, which is a Tuesday. Did you inform Kings that the review panel met on the following Tuesday?---I don't recall any conversations with Kings at that time, yeah.

Okay.

THE COMMISSIONER: This, the part that Mr Strickland read out is that, is the request that Vin strongly commends that the panel identifies the integrator with the most technical experience to undertake this product, this project as Inner Range will have to work closely with the integrator and you

want the confidence that the integrator can stand up when counted on. Do you see that Mr Paul?---I can see that, yes.

Isn't it strange that at the same time you're sending an email about Kings working on Inner Range before to, to UWS?---No, I don't see, it's coincidental, it's not, it doesn't mean it ties it to me, no.

10 Just pure coincidence?---Well the tender was out. Obviously Vin's looking at it, Charlie's looking at it. There's multiple other companies looking at it. I mean, no.

And you send an email with a blind copy to Mr Roche that illustrates the very point that Vin is asked to strongly recommend?---No.

That's just a coincidence is it?---No, he's, he's, in this thing he's putting a list together of all of the Kings accredited people and (not transcribable)

20 No, no, it's much more than that. It's more than that. Strongly recommend the panel identifies the integrator with the most technical experience to undertake this project as Inner Range will have to work closely with the integrator?---Yeah.

And you want the confidence that the integrator could stand up when counted on. Now the email you sent to UWS would in effect represent the very thing that Vin was asked to do?---No. No.

30 No?---No. He, he says the panel identifies the integrator with the most technical experience, that meaning the, the people, the experienced people who are accredited and that's the reason accredited advanced techs, not just certified advanced techs, right. He's put that in brackets. And then it goes on to say, to undertake this project as Inner Range have to work closely, right. The prior email that I had sent was in relation to experience on a project, not individuals. This is indicating individuals not, not a project. Two separate things.

MR STRICKLAND: Yes, but the web link you sent on the email on the same day was a link to the Inner Range website wasn't it, Inner Range website?---A hyperlink to the, to the project.

40 Yes?---Yes.

But it was on the Inner Range website wasn't it?---Well, yeah, I don't have it front of me, but I assume so, yes.

Well it's not an assumption, you've seen it. Do you want to see it again? ---Yeah, I don't have it in front of me so I don't recall what - - -

Okay, okay?--- - - - the specific hyperlink or the address of that website.

Okay. Fair enough. I'll show you again. It's Exhibit 38. And if you go to the email which is 9 August at 8.16 or 20.16pm and you'll see attached to that is the actual website site as at 24 August, 2007. Do you see that?--- Specifically case studies, specifically the case RPA.htm, yes.

Look just do you see that?---Yes.

10 And it's on the Inner Range website isn't it?---Specifically to the case studies though, yes.

That's right?---It's not a generic to the website or it's not to the website pointing out individuals and their technical experience, it is to a case study.

No, I understand that?---Good.

20 But, but what I want to ask is that by, by Inner Range having that document on its website and Kings being associated with that project would link – and you know would link in the minds of the Tender Evaluation Committee Kings capacity to work on projects which Inner Range are sought to highlight on its website?---No, not their capacity. Their experience. The project related experience. The capacity goes to this other email which would be the list of experienced and, and accredited people. There's two separate, two separate parts.

Okay. I'll just show you, further to the last email that I have - - -

THE COMMISSIONER: I think we should, are you tendering that?

30 MR STRICKLAND: I beg your pardon, I tender that, yes.

THE COMMISSIONER: Yes. The email of 9 August, 2007 from Peter Roche to Vin Lopes is Exhibit 40.

#EXHIBIT 40 - EMAIL FROM MR ROCHE TO MR LOPES RE UWS DATED 9 AUGUST 2007

40 MR NAYLOR: Commissioner, without wanting to complain, I'm sorry, there are an insufficient number of these tenders coming up to the back row, we're sharing two between four at the moment.

THE COMMISSIONER: Well, we're doing our best, Mr Naylor, there are actually I think about 200,000 documents that we're trying to cope with. If we don't get it right all the time I can only apologise, we are really trying.

MR NAYLOR: Thank you, Commissioner.

THE COMMISSIONER: If someone could try and assist Mr Naylor it will be - Ms Lonergan says she will help you.

MR NAYLOR: I'm much obliged, thank you, Commissioner.

THE COMMISSIONER: So Exhibit 40 is the email of 9 August as I said.

10 MR STRICKLAND: Now can I show you a further email from Vin Lopes to Mr Roche. I tender that email and I'll ask some questions about it.

THE COMMISSIONER: Sorry, I beg your pardon. This is the email of 13 August, Mr Strickland?

MR STRICKLAND: That's right, 13 August, 2007 which attaches a two-page document, 554 to 556.

20 THE COMMISSIONER: The email of 13 August, 2007 from Mr Lopes to Mr Roche with two pages attached is Exhibit 41.

#EXHIBIT 41 - EMAIL FROM MR LOPES TO MR ROCHE WITH SUPPORT LETTER FOR USE SENT ON 13 AUGUST 2007

MR STRICKLAND: So I just want to draw your attention to this email and in particular the attached letter of support where if you just go - have you got that letter, it's at 555?---Yes, I do.

30 And after talking about the Concept products and their advantages, on the second last paragraph it says, "As the manufacturer of the Concept products to be used we ask that due consideration be given in the tender selection to the points we have raised. We caution it would be very difficult for any company that does not have a strong history of previous experience using our products at this level to successfully undertake this project and the scale of works suggests that a reasonable number of experienced technicians would be required to complete the project in an acceptable time and the complexity of the works would require supervisory technicians with high levels of experience and training across the IT, the entire IT spectrum
40 including aspects of IP networking." And then in the last paragraph it draws attention to the accredited dealers programme that Inner Range has been running since 2000 and it identifies those integrators that are committed to the Concept product and the investment that they have made in training their technicians in the use of the product and then there follows a link and then an explanation of the accreditation system at page 556. Now this letter was sent to you, wasn't it?---I assume so.

Because that is the- - -

THE COMMISSIONER: It's a letter, isn't it? It's not an email?

MR STRICKLAND: It's a, it's a draft letter attached to an email from Mr Lopes to Mr Roche. I beg your pardon, I beg your pardon, it's a, it's a copy of an email that had been sent to Daniel Paul moment ago. I'm sorry, Mr Commissioner.

10 THE COMMISSIONER: Sorry, I'm not sure what you're saying.

MR STRICKLAND: I'm sorry – 5 – I beg your pardon, 554- - -

THE COMMISSIONER: Yes.

MR STRICKLAND: - - -contains that information, "Attached FYI is a copy of an email sent to Daniel Paul moments ago."

THE COMMISSIONER: Right

20 MR STRICKLAND: I beg your pardon.

THE COMMISSIONER: Thank you.

MR STRICKLAND: Now, that, you said earlier when I took you to the appendix to the tender report, and I took you to the names of the – perhaps I'll just show you appendix 1 again, D24.

30 THE COMMISSIONER: I'm not sure if it's appendix 1, I think it's the checklist, isn't it?

MR STRICKLAND: No, it's appendix, on my document it's appendix 1, the list of accredit Concept 4000 professionals.

THE COMMISSIONER: Yes, that's appendix 1, you're quite right.

MR STRICKLAND: That's right. Now, you said earlier that you took that directly from the Website link?---Weblink, that's right.

40 The Weblink. And, and the link that is referred to at page 555 is that Weblink, I suggest?---I don't know 'cause I don't know what time I took it and whether, that appears to have, they have made changes, they've obviously added this, these other people into it by the look of that, the previous emails.

Well, indeed, indeed that is so. But what I want to suggest to you is that your evidence, I want to suggest your evidence that appendix 1 was taken from the Weblink is completely correct?---From a Weblink, yes.

From, well, from the Inner Rang Weblink?---Yes.

And that that was provided to you as the email on 13 August suggests, it was provided to you by Inner Range?---Well, as I say, I don't know what time I took the appendix from the Website, whether it was a direct ah, reading an email, whether, whether that came to me, I don't recall receiving that, right, but if I did receive it, whether I had clicked on the Weblink and seen it or whether I'd already gone there because I was instructed by Leo, the tender chair, to obtain a list.

10

Well, what I'm suggesting to you is that, well, you certainly knew, didn't you, as a security consultant, that the accreditation of persons working for Inner Range was a crucial factor in whether a tenderer could win the contract, didn't you?---Well, all of them, no matter who we appointed had to be accredited, yes.

THE COMMISSIONER: Can you just answer the question?---I am answering the question.

20 The answer it yes, is it?---Yes.

MR STRICKLAND: And so your, the, the list that forms part of appendix 1, as you previously agreed, was a critical factor in Kings being awarded the contract?---It was a factor, I don't know whether it was a critical factor or not.

If you look at the score- -?---Yeah, but I, I don't recall doing those scores.

30 Well, looking at it now then, it is clear that it is a critical, it was a critical factor?---It's one, it's one of many.

Well, the weighting for those factors combined is 50 per cent or more and they got a score of 10 out of 10 and 9 out of 10?---And previous, previous experience was 26 per cent and key personnel was 35 per cent.

That's right?---So key personnel is the 35 per cent weighting of- - -

40 Plus 26 per cent is 51?---No, no, previous experience is different to, to, I explained earlier, previous experience is different to the accreditation process.

But under the heading Previous Experience it refers to the list of accredited persons, doesn't it?---No. Experience in relation to the installation and maintenance of access control systems, particularly Concept 4000. That doesn't relate to the individuals, that's why there are two different accreditation components to that, to that evaluation, a 26 per cent and a 35 per cent. The 35 per cent relates to key personnel which is appendix 1, not,

not previous experience, 26 per cent. You don't put the two together to get that, no.

Well, you don't think that the previous experience and the reference and the comments to the advanced, five advanced technicians and five certified technicians, you don't think that, that is at all relevant to the list of people in appendix 1 that - - -?---It depends on who wrote that I don't know who wrote that. It's their interpretation of that of the discussions that came out of that meeting.

10

Let's just assume you're right and it only relates to key personnel, that's a 35 per cent weighting and I've got a perfect score?---Yeah.

So that's a critical factor in them winning the contract, wasn't it?---Well, I don't know that it was a critical factor, it was a factor and they didn't get a perfect score.

I beg your pardon?---They got a four.

20

I beg your pardon?---They got a four.

Who?---On 616, oh, sorry, SECOM, SECOM - - -

631?---My apologies, let me go there.

They got a 10?---We've got Kings. What page is - - -

631?---Thank you. Key personnel, yes, they got a 10 there.

30

What I want to suggest is is it the case that you advised Kings - Mr Paul? ---Yeah, I'm listening.

Is it the case that you advised Kings that they needed, that their personnel needed to be accredited with Inner Range in order to maximise their chances of winning the contract?---Not at all, they would have seen that in the tender documents, they would have known that to be the fact in relation to, in relation to doing such a large project, that's a commonsense thing for a tenderer.

40

So you deny that there were any, you had any discussions with Mr Diekman or Mr Roche or anyone else from Kings - - -?---Not that I recall.

- - - giving them a, a hands up - - -?---Heads up.

Heads up, thank you, giving them a heads up in relation to them being, their personnel being accredited with Inner Range?---Not that I recall.

THE COMMISSIONER: And you can't imagine why Mr Roche inserted your email address on the email of 9 August, Exhibit - - -?---Because he knew I was the consultant. If you're going to - - -

And therefore, and therefore?---For the, for the thing for Vin Lopes to, to send that, that document to me.

Why should he send it to you because you're the consultant or - - -?---To try to drive that point home I imagine.

10

To you?---Well, so that I could take it to the tender panel.

Well, why didn't they just send it direct to the tender panel, why did they send it to you?---I'd have to look at the documents but I assume that I'm the technical advisor on the documents so maybe they were sending them to me, I'm not sure.

Because you had considerable influence?---No, no, not, because I have, I have no more influence than anyone else on that panel.

20

You have more technical knowledge don't you?---I have no more influence than anyone on that panel.

Do you have more technical knowledge?---And that's why I'm a technical advisor, not a, not a scoring assessor.

Is the answer yes?---Technical knowledge?

Yes?---Yes.

30

MR STRICKLAND: Going back to that blind copy of an email, the email, you did not send any such document to, in any relation to any other tenderer to UWS personnel did you?---I don't recall.

Well, I want to suggest that you did not do so?---You can suggest that but I don't recall. If I don't have all the documents in front of me I can't tell you whether that's a fact or not.

40

THE COMMISSIONER: Well, have you given ICAC all the emails that you have in your possession that relates to this?---I've given you whatever you asked for, yes.

Well, is the answer that all emails relating to this UWS contract that were sent by you have been given to ICAC?---If that's what the, the, the notice for me to provide documents said yes, then yes, that's correct.

And as far as you're concerned you've complied fully with the request?
---Yes.

MR STRICKLAND: I want to provide you with a copy of some phone records, in particular your mobile number, your mobile phone records. Now, you're mobile was 0-4 - sorry, your mobile record was 0-4- ?--- Correct.

I'll ask for that to be, is that - - -?---It doesn't matter to be suppressed it's still that number now.

10 Okay. Okay. And if you go please to page 3 of those records I just want to take you to some calls you made on 8 August, 2007, that's one day before these emails and indeed the same day that the tender closed, it's recorded on these records that at 5.12pm you rang Daniel Paul's mobile and you spoke to him for some three minutes and thirty seconds.

THE COMMISSIONER: Sorry - - -?---Charlie Diekman's.

Charlie Diekman.

20 MR STRICKLAND: What did I say?

THE COMMISSIONER: Daniel Paul.

MR STRICKLAND: I'm sorry, I beg your pardon. That you, I beg your pardon, that you rang Charlie Diekman, I'm sorry, at that time, 5.12pm and spoken for three minutes 30 seconds and then later that night at 9.25pm you again rang Charlie Diekman and spoke to him for five minutes and 30 seconds. Is it the case during either or both of those calls that you spoke to him about the need for Kings to demonstrate to UWS that you had the technical fire power or the technical resources, the technical capability to manage the project?---Not to my recollection, no.

30

You I assume will say that you don't have any recollection of what was discussed during those - - -?---I have no recollection of any, any of those conversations, no.

- - - during those nine minutes of telephone calls. Is that right?---(No Audible Reply)

40 See it's, it's the following morning where Mr Roche writes to Mr Lopez, copied Diekman, saying we've been informed it would be a powerful case in our favour if Kings could demonstrate they have the technical resources fire power to manage the project?---Yeah.

I mean you were the security consultant and you are telephoning the principal of one of the tenderers on the night the tender closes and before the tender evaluation panel meets to discuss the prospective merits of the tenderers. Correct?---About something completely different most, most

probably. I mean I spoke to Charlie a lot, as you can see through these records.

Yes?---We talked a lot.

Exactly. And how, how can you possibly know or say you remember that you spoke about something completely different if you say you don't - - -? ---Because I don't - - -

10 - - - if you say you have no recollection what was discussed?---Because I don't talk about tenders when they're under, when they're under assessment.

I tender these records.

THE COMMISSIONER: Yes, the, the details, telephone records from Mr Paul's mobile phone from 1 June, 2007 to 30 November, 2007 is Exhibit 42.

20 **#EXHIBIT 42 - RECORD OF TELEPHONE CALLS FROM MR PAUL'S MOBILE PHONE NUMBER TO PHONES SUBSCRIBED TO KINGS SECURITY GROUP**

MR STRICKLAND: Just going back to Exhibit 38 again where Mr Diekman or Mr Roche know when the tender evaluation panel is meeting, that is next Tuesday. Can you think of anyone else who would have informed Mr Diekman when the review panel met?---I have no idea. I don't know who else they know. They could know other people within UWS or
30 other people on the tender panel. I don't know. It wasn't me.

Now were you, were you aware that complaints before the awarding of the contract to Kings, that complaints had been made within UWS about work, cabling work Kings had done in relation to the smaller UWS contract? Were you aware of that?---I don't know that they were involved in the smaller project. No, I don't recall any of that.

So I want to, I want to suggest that you had discussions with Leo Fincher-Johnson about complaints that were made in relation to the Kings work?---I
40 don't know, I don't recall. I mean I may well have, I don't recall conversations that I had back then so- - -

You definitely had, you definitely had discussions with Leo Fincher-Johnson in his capacity as the senior project manager at UWS, didn't you? ---Absolutely, yes.

I want to suggest that you told Mr Fincher-Johnson that the installation that Kings had done in relation to the earlier smaller project was different to

what UWS was looking for in the larger Concept 4000 contract and that the earlier Kings job had been done by inexperienced personnel?---I don't recall, I don't know where you get that information from but I don't, I totally don't recall the conversations.

And I want to suggest that you had a discussion with Mr Byrnes in similar terms?---I don't recall that.

10 You told Mr Byrnes that at the flat 4 teaching spaces or whatever job had been done by Kings was a difficult job and that Kings were not familiar with the equipment- -?---I don't- - -

- - -as they had not installed the type of equipment before?---Sorry, I don't recall that installation. I mentioned that earlier, I don't.

THE COMMISSIONER: Do you recall the conversation?---No, I don't recall the, I don't recall the installation therefore I don't recall the conversation, no. I'm just, I don't even know what project it is.

20 MR STRICKLAND: I want to suggest to you that you told Mr Byrnes that he should have faith in Kings' workmanship because they were a good company?---I don't recall.

And what I want to suggest generally is that you spoke to Mr Byrnes about Kings in favourable terms, saying they're a great company?---Their quality of installation is pretty good, yeah.

And you told Mr Byrnes that?---I don't recall the conversation.

30 I want to suggest that you also told Mr Leo, Mr Fincher-Johnson or Mr Byrne that the problems Kings had had with the earlier contract was a different type of project from the access, the large access control contract that Kings were bidding for?---You said that a minute ago and I don't recall the conversation.

40 Okay. I'll just show you some other documents. Could I just have one of those copies back just for a moment, please. Sorry, I just want to check what pages he's been given. Thank you very much. Mr Commissioner, there's a number of minutes of meeting and I propose that, I think perhaps for convenience, tender them as a single bundle, but I'll just- - -

THE COMMISSIONER: Yes. So you're tendering the email of 21 November with the minutes attached?

MR STRICKLAND: That's correct.

THE COMMISSIONER: Yes. The email from Mr Paul to Mr Byrne of 21 November, 2007 with four pages of minutes attached is Exhibit 43.

#EXHIBIT 43 - BUNDLE OF EMAILS WITH TOP EMAIL FROM MR PAUL TO A NUMBER OF RECIPIENTS RE USE CONTRACT KICK-OFF MEETING SENT ON 21 NOVEMBER 2007

MR STRICKLAND: Thank you. I'm told it's, is it 43?

10 THE COMMISSIONER: Yes.

MR STRICKLAND: Mr Commissioner, just so I can advise you, there's, there's about four or five separate minutes that I'd like to take this witness to and if I could do that now, it should take probably five to 10 minutes.

THE COMMISSIONER: Yes.

MR STRICKLAND: If that's convenient. First, if you could - it's the case, isn't it, that you were retained to act as the superintendent or as the, for the
20 entire implementation of the security contract?---No, I wasn't the superintendent.

Well, you were, you were named a consultant?---A consultant.

And what was your job in terms of the implementation of that contract?
---To attend weekly or fortnightly or whatever it is meetings to essentially -
not chair the meetings, but take the, take the minutes of the meetings, to
assist Adam, Adam was the, was the security manager and effectively act
under him to, to, to assist him in the management of the project. I wasn't a
30 project manager though, give advice, provide advice.

In your capacity, in that capacity you attended a number of meetings of UWS in relation to the implementation?---That's correct, yes.

And I'll just take you to a number of them, the first occurred on 19 November, 2007, if you go to page 707?---Yes.

And in item 8 you can see you're, you're an attendee together with
Mr Roche and Mr Kuryj of Kings and Adam Byrne and Mr Gilfoyle, do you
40 see that?---Yes.

And in item 8, excuse me, item 8 refers to a request for Kings to work with UWS to review associated documentations and drawings to install extra variations to the contract, that is to install 20, access control to 20 new rooms at Bankstown, can you see that?---Yes.

And that involved, that's in addition to the existing contract, do you remember that?---It appears to be yeah, according to item 8, yes.

And if you go to, then go to item 35 at page 709, you can see that the meeting also discussed that Kings was instructed to ensure that all correspondence, I'm sorry, sorry, Kings was instructed to ensure all correspondence was copied to DP and conversely all correspondence generated by DC will be copied to, and then it's got Adam Byrne and various offers?---Peter Gilfoyle, Peter Roche and Steve Kuryj.

10 That's right, thank you. Now, could I just show you now a second set of minutes. Mr Commissioner, if it's convenient I'd just ask these to be added to this exhibit.

THE COMMISSIONER: Very well.

MR STRICKLAND: And this is for 3 December, 2007.

THE COMMISSIONER: The minutes for 3 December, 2007 will be added to Exhibit 43.

20 MR STRICKLAND: And I just simply wanted to draw your attention to items 10 and 11 which relate to the same subject matter.

THE COMMISSIONER: 10 and 11 did you say?

MR STRICKLAND: That's correct, items 10 and 11. I'm just doing that for completeness. It's tendered as part of 43. I'll just show you this document and I just want you to - this could also be tendered as part of 43.

30 THE COMMISSIONER: Well, the email from Mr Paul to Mr Roche of 13 December will be, will form part of Exhibit 43.

MR STRICKLAND: Now, at the top of that email, Mr Paul to Mr Roche, you ask Mr Roche to call you to discuss?---Ah hmm.

And that is to discuss the email that had been sent to him from Mr Byrne below, do you see that?---Yes.

40 And do you recall having a discussion with Mr Roche about the updated contract for the extra 21 rooms at Bankstown?---No, I don't.

Okay. Now if I could just show you another document. Now in that email you say to Mr Byrne that you contacted Kings earlier today, before you received the email which was 13 December and you said you instructed them in readiness for next Monday's meeting. And then you called Kings again and asked them to provide details on the items you've raised. So it appears that the discussion you had with Mr Roche in the previous email related to this matter of the 21 extra rooms and the updated cost schedule, et cetera. Do you see that?---Sure.

THE COMMISSIONER: I think I better tender this as a separate – otherwise we're getting a bit lost.

MR STRICKLAND: Sure. I beg your pardon? Okay, certainly.

THE COMMISSIONER: Exhibit 44 is the email from Mr Paul to Mr Byrne of 13 December, 2007 and that's the last email in a string of emails.

10

#EXHIBIT 44 - EMAIL FROM MR PAUL TO MR BYRNE SENT ON 13 DECEMBER 2007 RE KINGS SECURITY

MR STRICKLAND: Then if I can show you an email, this is an email from you to Mr Roche which contains blue and black ink on the first page and you can see there that in your email you say, "Peter, your quantity and price on the left, my suggestion on the right. Also see your email below with my comment in bold adjacent." And you can see there are two, there are four
20 columns of figures. Can you see that?---Yeah.

And the left, according to your email, the left hand column is Mr Roches figures and the right hand column are yours. Do you see that?---Yeah.

And the right hand column figures are higher than his figures?---Mmm.

Correct?---Yes.

And if you turn over the page you can see that this relates to the, if I can call
30 it the new contract I've been referring to about the security for the 21 extra rooms at Bankstown. Do you see that?---Yes.

And that you have, what you've done there is, this is at the very bottom of 725, is that you have added to his email your suggestions as to what, what to say or what to exclude?---Yeah.

Right. Now - - -

THE COMMISSIONER: You've told him to send you an email and you
40 told him what to say in the email?---As a result of a conversation I would have had with UWS, yes.

MR STRICKLAND: Well what's that conversation with UWS?---I don't recall the detail of that, but I didn't do this stuff on my own, I did it in conjunction with the relevant people within that, within that project team.

Well you notice that your email to Mr Roche is not – you don't copy anyone in from UWS do you?---No. No.

But you recall the previous item that I showed in the November meeting whereby any emails that were sent to, should be various people from UWS should be copied in. Correct?---Yes, yes.

So why didn't you comply with that resolution - - -?---Because - - -

10 I haven't finished. With that resolution at the meeting that UWS people should be copied in?---Because as a consultant sometimes my client will instruct me to do things outside of that rule to do whatever it is we need to do to make a project flow smoothly and for whatever reason I would have been acting under someone's instruction here. I don't recall who, but I wouldn't have taken this on myself without some sort of instruction or some sort of discussion with Leo, Adam, Peter Gilfoyle, the whole lot of them, right, and gone and done this on my own.

If you have no recollection of getting any instruction from Leo or Adam- - -?---I don't have, I don't have recollection of the details.

20 I haven't finished the question, I haven't finished the question. You don't recall getting any instruction from Leo or Adam or Mr Gilfoyle, do you? ---I don't, I don't do that on my own. I do that on a number of jobs, various different jobs over time, and it's always under instruction.

See, what it appears on the face of the document- - -?---Yes.

- - -is this, is that you are suggesting to Mr Roche to quote a higher price - - -?---Mmm.

30 - - -than that which he is suggesting?---Mmm.

And you have not copied anyone from UWS in on that email? ---I understand that.

And so that's suggesting on its, on the face of this document, you're telling Kings to quote a higher price- - -?---Higher price, yes.

40 - - -for your client?---That's what it looks like, on the face of that without the background, yes.

THE COMMISSIONER: So what's the background?---As I just explained, I, I will be acting under instruction from my client.

Well, what possible reason could your client have to ask Kings to increase their price so they pay more?---Most likely to bring it under a warranty or some sort of, I don't, I don't recall the detail of that, I don't recall the specific details, but it will be related to some sort of warranties or were using product from us, as in from UWS, I class it as us, as in our stock. I

don't recall the detail of that but I won't, I wouldn't normally do that on my own.

What do you mean normally?---It would always be under instruction.

What do you mean normally?---I, as I just explained to- - -

You mean sometimes you do it on your own?---No.

10 So why did you say normally you wouldn't do it on your own?---Because that's not a normal email, that's, that's, that's under instruction. I don't do that sort of thing on my own. I do it for various different clients at various different times, always under instruction.

It's such an extraordinary thing I would expect that you would remember who told you to do it?---What's the date of the email?

20 15 December, 2007?---Five years ago. Not at all. I don't even recall the project. I don't recall the email. I certainly don't do that sort of stuff on my own.

And, and once you're sending an email that has such a sinister implication, surely you make sure that you send a copy to your client so that no one can accuse you of anything?---I, I don't, I don't have the emails, this is the first time I've seen this in five years. I've given you everything I had on my system, albeit my system's crashed a handful of times between then and now and I don't have all the emails. I just, I've given you everything I have. I can tell you that I didn't act alone.

30 MR STRICKLAND: Now I want to suggest to you that your evidence that you prepared this email on instructions from anyone at UWS is a complete fabrication?---Absolute rubbish.

I tender that email.

THE COMMISSIONER: Yes. The email of 15 December, 2007 will be Exhibit 46. That's from Mr Paul to Mr Roche, sorry, 45, I'm sorry. It's Exhibit 45.

40

#EXHIBIT 45 - EMAIL FROM MR PAUL TO MR ROCHE RE UWS CLARIFICATIONS SENT ON 15 DECEMBER 2007

THE COMMISSIONER: Did you say, Mr Roche, that - were you trying to say that you sent an email to UWS confirming their instructions to increase the price?---I beg your pardon?

Were you trying to say that you sent an email to UWS confirming their instructions to increase the price but because your computer crashed you haven't got the email? Is that, is that what you're saying?---No. I'm, I'm saying I don't recall the details surrounding that and it would have been under instruction, I might, I might not necessarily have copied that to Adam or Peter Gilfoyle or, or Leo, it may have been as a result of a discussion that we had that I went and did that but I don't act alone when I do that sort of thing.

10 Well, just look at what your own words, look at the front page of the email?
---Sure.

“Your quantity and price on the left, my suggested on the right”?---Yeah.

You don't say UWS' suggested on the right, you say “my suggested on the right”, can you explain that?---Yeah, I act, I act on behalf of my client. When I, when I'm talking about my client I'm talking about me so I don't differentiate the client and me, it's, when I'm talking I'm talking on behalf of the client.

20

THE COMMISSIONER: Well, don't you think that this is so extraordinary that - - -?---It's not extraordinary.

Just, can I finish? It's so extraordinary that you would want to let Kings know that this is on the instructions of your client?---It's not extraordinary.

This is something you do often is it?---As I just explained a minute ago, it is something that happens occasionally, yes.

30 What that you actually tell the supplier to increase the price that the supplier has quoted?---It depends on the context of the - - -

Is that what you mean?---Depending on the context of the conversation, yes. Because it may be building in spare parts for them in the future, that type of thing. And that goes on.

MR STRICKLAND: Would that be a convenient time?

40 THE COMMISSIONER: Yes. The Commission will adjourn till 10.00am tomorrow.

**AT 4.10 PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.10PM]**