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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 FRIDAY 31 AUGUST, 2012

AT 2.13PM

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

THE COMMISSIONER: We have Mr Agnew back. So you can take a seat. Is Mr Hughes here?

MS HUGHES: Yes, Commissioner.

10 THE COMMISSIONER: So you are still under the oath that was administered to you last time and the protection that you were afforded remains under section 38.

**THE SECTION 38 ORDER CONTINUES TO APPLY**

THE COMMISSIONER: Yes, Ms Hughes?

20 MS HUGHES: Mr Agnew, my name is Hughes and I appear on behalf of Mr Huskic. I just want to ask you some questions about your evidence yesterday and also about the statement you previously made to ICAC. You told the Commission yesterday you were approached by Robert Huskic in 2010 to quote for some boom gates at Gosford Hospital?---That's correct.

And you understood you were unable to carry out the access control works that were associated with those boom gates. Is that correct?---That's correct.

30 And you understood that those works would be carried out by Kings?  
---Yes.

Can I show you – can the witness be shown Exhibit 167 page 595?---Yeah.

That's a quote from Kings addressed to Northern Sydney Central Health. Is that correct?---Yes, it is.

For a total of 11,200 plus GST?---That's correct.

40 And that was the quote which was attached to your quotes for the boom gates. Is that as you understand it?---That's as I understand it. I, I haven't seen – I didn't see this quote up until- - -

THE COMMISSIONER: It was attached but not by you?---No, not by me. I've, I've never received those quote to do anything with it.

MS HUGHES: No, it was, but you understand that it was sent to Area Health together with your quote in relation to the boom gates?---Yeah, I know that now, yes.

And that quote that you've got in front of you that's addressed to Area Health or, or addressed to Northern Sydney Central Coast Health?

---That's correct.

It doesn't indicate anywhere on that quote that was – you – they were to be your subcontractors, does it?---No, not at all.

Can you turn to page 594?---Yep.

10

And you'll see there's some words where Robert Huskic has written on the bottom of that?---Yes.

Saying that the quote from Kings needed to be added to your quote?---Yes.

It's consistent, isn't it, your quote couldn't cover the whole project because you couldn't do works for access control, could you?---I agree, yeah.

20

You understood that one of the other quotes was coming from Kings. Is that correct, for the, for the whole project?---Well, I understood Kings were going to look after the access control.

Did you understand they were also quoting for boom gates?---Yes, I did.

So they were quoting for the same job that you were quoting for?

---That's- - -

THE COMMISSIONER: Plus?---Yes, yes, they were.

30

Plus the, plus the access control?---Yeah. They were, but then if I'd, if I'd won the boom gates they would have been doing the access control.

MS HUGHES: That's correct?---That's right.

But if, if Area Health were to compare the total cost of what it would cost for you to do the job and for Kings to do the job, they would need to add into your – or factor into your quote an amount for access control. Is that correct?---Yes.

40

So if they were going to compare the same things they would have your quote plus an amount for access control and with Kings they would just have the one quote?---Yes.

Robert Huskic never told you that Kings would be subcontracted to you and that, that, and I suggest to you that that was simply because that was never the intention?---Okay. Look, I don't know all- - -

THE COMMISSIONER: You can't answer that. How can, how can this witness answer that?

MS HUGHES: Well, he, he never said to you that he, that he, that Kings would be subcontracted to you for that part of the job, did he?---No. The way I understood it was Kings were going to look after the access control.

10 So if we were to try and determine the total cost of the job, if you were given the boom gates we'd need to add Kings quote for access control- - -

THE COMMISSIONER: Well, you've done that, you've asked that.

MS HUGHES: - - -and yours for the boom gates?

THE COMMISSIONER: Yes, I won't allow it, that's repetitive.

MS HUGHES: You gave evidence that you gave an earlier quote in 2008 for Area Health relating to Gosford, the Gosford Hospital boom gates? ---Yes.  
20

If you can turn to page 596?---Yeah.

And that's that old quote?---That's correct.

It's dated 2008. And I think in your statement you said that you think Eco didn't win that job. Is that correct?---No, that's correct.

30 Are you aware that the works weren't carried out in relation to, the works that that quote refers to weren't carried out in 2008?---Yes.

Do you know when they were carried out?---I don't, no. I don't even know if they were carried out at all.

If I suggest to you that the works to which that quote relates formed part of the works which were carried out into 2010. Would you agree with that or you just don't know?---Well I wouldn't agree with adding - this quote to a quote in 2010 because it's two years old. I've got sub contractors - - -

40 I, I understand that. I'm asking about the works that those, that quote relates to. They weren't carried out in 2008. If I suggest that they formed part of the scope of works for the 2010 project would agree with that?---No, because otherwise I would have quoted it in my 2010 quote.

Can you turn to page - you've got the, your quote there and can you turn to page 799. And can you keep the quote, the old quote of yours that you've got - - -?---Just here, yeah.

- - - just there. And just, I want you to compare those two documents?

---Okay. That's - - -

799 is a quote from Kings number 48689 to Northern Sydney Central Coast Health?---Right.

If you compare the works in that quote, that quote's dated May, 3 May 2010. Compare those works to the works set out in your earlier quote number 14.

10 THE COMMISSIONER: What's question?

MR HUGHES: Once I've asked him to - what I am putting to him that they cover the same scope of works.

THE COMMISSIONER: I think you should read both of them without a question in mind. The question is, is the quote, does the quote at 596 cover precisely the same scope as the quote at 799?---It looks to be, it looks to be similar.

20 Similar. Is it precisely the same? I mean I don't, I don't understand how it could be. Because see it starts off by saying two Fadini Commercial 930 series boom gate. I don't see Fadini anywhere on, on 696, 596.

MS HUGHES: With the exception of maybe some of the component parts you're using different products but essentially it covers the same scope of works. Is that correct?---It looks, yeah, it looks similar.

THE COMMISSIONER: It looks similar?---Well the, the complete - - -

30 That's not an answer?---Okay.  
Is it the same or isn't it?---It's the same I would say using other people's components, yes.

MS HUGHES: Now Mr Agnew, you may not be aware that the quote from Kings was attached to their quote - - -?--Ah hmm.

- - - which was sent to Area Health in the same way - - -

40 THE COMMISSIONER: The quote was from Kings was attached to their quote?

MS HUGHES: To their, to Kings quote which was - there was an initial three page quote from Kings which all had the same quotation number and there was an additional page which is the one I'm asking the witness about now.

THE COMMISSIONER: I don't understand it but just carry on.

MS HUGHES: The amounts which totalled the amount which Kings said was going cost to do this project formed, it was formed by two quotes. This is the second quote being page 799. What I'm putting to the witness is that the scope of works in the quote from Kings on page 799 is the same as the scope of works in his old quote on page 596.

THE COMMISSIONER: Well he said yes.

10 MS HUGHES: Now this - the scope of works changed during the course, from the time you initially did the (not transcribable) walkthrough the scope of works altered you were asked to add additional items, is that correct?---It was, yes.

What I'm putting to you, what I want to put to you, Mr Agnew, is that that old quote related to the staff or the fleet car park as it was known?---Ah  
hmm.

20 That wasn't, those works weren't carried in 2008, they were added to the scope of works in 2010 and both persons that were quoting were asked to quote for that section of the work. Now, was it possible that either Mr Huskic had your old quote and added it to your quote or that he contacted you and you told him that you'd already quoted on it and to use the old quote or you sent him through your old quote?---Look, it's a long, four years is a while ago but I'm sure I wouldn't have told Mr Huskic, Huskic, to use that quote because those numbers would have been two years old plus I had subcontractors come in and quote ground works and that sort of stuff so I couldn't use those price, that price in, in the next thing. Also, had I been able to quote that particular car park because of economies of scale I may have been able to do better on pricing, I don't know, like I - - -

30 THE COMMISSIONER: But the products were different too. Weren't the products, I understood you to say the products were different as well?---The, the - you can buy many, many different branded boom gates so the Fadini is a brand of boom gate like a Holden or a Ford and so is the Rapid or the RIB so that it's much the same product but different manufacturers but what I was saying is that if I, if that had been wrapped into the other quote, because the quote's so large, you can obviously do better on buying and all that sort of stuff so I don't know what the price would have turned out had I, had I quoted that in 2010.

40 MS HUGHES: Oh, I understand that but you may see that from Kings' quote it wasn't (not transcribable) to the other quote either, it was a separate component?---Yeah.

But what I'm - you gave evidence also in relation to the way you did your quotes. You had them on a MYOB system, you dated them and when alterations came through you, you just did the alterations on an initial product template, you didn't go back and change the date or anything else,

you just added the additional information or made the changes that you needed to to the original quote?---Yes.

That's why your quote bears the date of - - -?---Yes, at time, yeah, the dates, yeah.

- - - some months before they were actually put into Area Health?---Yeah.

10 Is it possible - - -?---I can't say I do that consistently as unfortunately it's just sometimes I slip the date on it.

It's a, it's a easy way to do it?---Yeah.

20 Is it possible that you used your old quote, number 14, when you were asked to quote for this Area work and you just didn't change the date?---I don't, I'm a bit methodical like that in that I wouldn't have just updated that quote because obviously that means I've got to submit, if I'm submitting a price in for a job I'm submitting two quotes in for the same equipment so I would be, I would, and I know I would, wrap the whole thing together so it'd be all under one quote number so that they've only got to place an order on one quote number otherwise quite often it's too difficult to track.

Looking at those two individual quotes, your old one being number 14 and the Kings one, they're for very similar amounts aren't they?---Yes.

And the two other quotes which are the quotes for the, your quote 2203 which totalled 176,370.59, that's on pages 565 and 568Z?---(not transcribable)

30 MR STRICKLAND: My understanding of Mr Huskic's evidence in relation to the 40,000 quote, that's the 208 quote, quote number 14, my recollection and understanding of his evidence was not that it had anything to do with this 2010 contract but that he mistakenly put it into the bundle of Eco Traffic quotes, that was my understanding of his evidence. In other words, it's admitted.

THE COMMISSIONER: I can't recall, Mr Strickland.

40 MR STRICKLAND It was admitted that, his evidence was yes, I did it, yes, it wasn't part of the works for 2010 but I'd a mistake, it wasn't deliberate, that's my understanding of the evidence.

THE COMMISSIONER: I don't recall.

MR STRICKLAND I'm fairly confident that's the evidence.

THE COMMISSIONER: Yes. I'm sure Ms Hughes will bear that in mind but I'm not in a position to rule on that.

MS HUGHES: The total of your quote and the total of Kings' quote - - -?  
---What pages were they again?

The end, end sum total of your quote is at page 568 and yours comes to 176,370.59?---Yes.

And the summary of Kings' quote can be found at page 794?---Yeah.

10 And theirs is 178,750?---Ah hmm.

A very similar amount?---Yeah.

You gave evidence yesterday, didn't you, that without the inclusion of that extra quote you felt like your quote had been inflated by the addition of the - - -?---I don't, I don't think I, I didn't actually say I think it's been inflated, I just said the two were together I thought. I mean I wasn't aware that those two – what I, what I feel I said – maybe I should go back through what we all actually said verbatim, but it was more that I didn't understand that that  
20 2008 quote was going to be attached to the 2010 quote, I didn't know anything about that till I came in here some weeks ago.

Well, I put it to you, Mr Agnew, that in fact Mr Huskic did run that past you and did tell you that that extra car park was to be included in the works, being the fleet car park, and that that prior quote of yours would be included in the scope of works. You don't recall that?---I don't recall that at all. I'm sorry, but- - -

30 When you found out that Kings had been awarded the job and not you, was it Mr Huskic that told you, rang you to advise you?---Yes.

And did he tell you that Kings had won the job but you were very close in price, do you recall?---Yes, but the fact that Kings had been on the site and knew the equipment was probably what pushed them over the, over the line.

And did he also say to you that he would have preferred you to carry out the job but that there had been an executive decision made that they wanted one contractor to manage all the contracts?---Yeah, something similar to that,  
40 yes.

I have nothing further.

THE COMMISSIONER: Mr Strickland?

MR STRICKLAND: Mr Agnew, your quotation for the Gosford car park job which is contained in quote 2203 was more or less for 158,000 plus GST. Is that right?

THE COMMISSIONER: It's at page 568?---568. Yes.

MR STRICKLAND: Now, when your quote was submitted, I'm not saying you know this, but when your quote was submitted by Mr Huskic to the capital works committee, it was quoted as 219,000 plus GST. I'm just letting you know that. Did you know that that is what your, your quote was referred to, do you know that that is what – the sum of money you were – Eco Traffic was quoted at?---No, my quote was the 176,370, that's, that's how I would have understood it.

10

No, just, no, I'm not talking about GST, excluding GST?---Oh, excluding, well, it would be 158.

Right. So did you, did you approve or authorise or know that you – that the quote that was being referred to was 219?---No, I didn't.

You didn't approve that?---No, I didn't.

And no one asked you?---No.

20

Thank you. Nothing further.

THE COMMISSIONER: Yes, thank you. Now you may really go?  
---Thank you, Commissioner.

**THE WITNESS EXCUSED**

**[2.33pm]**

30 THE COMMISSIONER: Mr Roche?

<PETER JAMES JOHN ROCHE, on former oath

[2.33pm]

MR STRICKLAND: Could I just tender some documents now, Commissioner?

THE COMMISSIONER: Yeah.

10 MR STRICKLAND: First could I tender a statement of Brad Ballesty dated 23 August, 2012.

THE COMMISSIONER: A statement of Brad?

MR STRICKLAND: Ballesty, B-a-l-l-e-s-t-y. He's an employee of Q Video. It's relating to a projector provided to Mr Paul. And could I also tender a New South Wales Art Gallery internal memorandum dated 30 March, 2009.

20 THE COMMISSIONER: Dated what date?

MR STRICKLAND: 30 March, 2009.

THE COMMISSIONER: Yeah. Well, the statement of Brad Ballesty of 23 August, 2012, will be Exhibit 248.

**#EXHIBIT 248 - STATEMENT OF BRAD BALLESTY DATED 23 AUGUST 2012**

30 THE COMMISSIONER: And the internal Art Gallery memo of 30 March, 2009 will be Exhibit 249.

**#EXHIBIT 249 - MEMORANDUM DATED 30 MARCH 2009 REGARDING CHANGES TO DELEGATION LIMITS FOR PURCHASING, PRINTING AND DISPOSALS**

40 MR STRICKLAND: I, I tender a statement of George Chrobak in exchange for the draft statement.

THE COMMISSIONER: The statement of George Chrobak - - -

MR STRICKLAND: Is 232.

THE COMMISSIONER: - - - will be substituted for the draft statement.

MR STRICKLAND: It's in Exhibit 232.

THE COMMISSIONER: In Exhibit 232.

MR LLOYD: Are there any changes to the draft (not transcribable)

MR STRICKLAND: Mr Commissioner, I'm afraid I haven't got the time to read the final statement to the draft but, but I will alert Mr Lloyd to that. I'm sorry, I just can't assist Mr Lloyd.

10 THE COMMISSIONER: It will admitted subject - that, that will be done subject to objection.

MR LLOYD: Commissioner, I probably have no objection to the, the now signed statement I'm just trying clarify there are - - -

THE COMMISSIONER: Yes, I understand.

MR LLOYD: - - - extra exhibits behind me.

20 THE COMMISSIONER: Anything more, Mr Strickland?

MR STRICKLAND: Yes, there is. I, I tender as a table, sorry, I tender a schedule, I tender a schedule of Kings Groups for account 2172 a total of the cheques issued. If I just indicate, Commissioner, that this is simply a, hopefully a convenient summary of the evidence already tendered which relates - there have been various cheques and cheque butts and bank statements and cheque voucher records and they're all, they're spread over many different exhibits.

30 THE COMMISSIONER: So this is not intended to be new evidence.

MR STRICKLAND: It is not, this is - - -

THE COMMISSIONER: It's just a summary of existing evidence.

MR STRICKLAND: Summary of existing evidence to enable parties rather than traipse through all the exhibits to - all the cheques, all the information about the cheques is contained in one relevant table.

40 THE COMMISSIONER: All right. The schedule of Kings Security Group cheques issued is Exhibit 250.

**#EXHIBIT 250 - SUMMARY OF CHEQUES ISSUED BY KINGS SECURITY RELEVANT TO THE OP TILGA PUBLIC INQUIRY FOR THE PERIOD 14/02/2007 – 28/10/2010**

MR STRICKLAND: I missed the number, I beg your pardon?

THE COMMISSIONER: I beg your pardon?

MR STRICKLAND: 250.

THE COMMISSIONER: 250.

10 MR STRICKLAND: Thank you. And I also tender a, an email from Mr Diekman to Mr Roche dated February, so it's an email chain, this is the last of email chain, an email from Mr Diekman to Mr Roche dated 4 February 2009.

THE COMMISSIONER: That will be Exhibit 251. It's an email chain the last of which is an email from Mr Diekman to Mr Roche of 4 February 2009.

20 **#EXHIBIT 251 - EMAIL STREAM WITH LAST EMAIL BEING FROM MR DIEKMAN TO MR ROCHE REGARDING INVITATION TO TENDER SENT ON 4 FEBRUARY 2009 AT 8:06AM**

MR STRICKLAND: Excuse me, Commissioner. Sorry, Commissioner.

Could the witness please be given the last exhibit.

THE COMMISSIONER: What, 251?

30 MR STRICKLAND: Excuse me. Mr Commissioner, I'm sorry I just need 10 seconds to get all my papers ready.

I'm sorry, Commissioner. Have you had a look at Exhibit 251?---Yes, Mr Strickland.

And I want to suggest that you did in fact receive the 4, the 4 February, 2009 email from Mr Paul, do you accept that?---No, I don't.

40 Mr Diekman forwarded to you - - -?---Correct.

- - - an email and if you look at the metadata on page 3, that's the third page of the email, the page after the email indicates that you received that email? ---From Mr Diekman.

That's correct, and including the email - - -?---Sorry, you said Mr Paul.

I'll start again then, Mr Roche. You received the email from Mr Paul dated 4 February, 2009 at 12.25am, do you agree with that?---No, I'll accept that I got it from Mr Diekman on Wednesday, 4 February at 8.06.53am.

Okay. So - that's fine. So you accept that you did receive and you did read it?---I received it, yes.

But you don't; you deny reading it do you?---I would have glanced at it, yes.

10

Glanced at it, right. Could the witness please be shown Exhibit 66, page 366. Have you got that?---Yes.

And if you go, you certainly received - I withdraw that. You certainly received this document, didn't you, Exhibit 66?---I believe we collected this at the, the tender meeting, it was given to us on the desk.

And if you go to page 366 you'll see under the heading "inquiries", do you see that?---Yes.

20

And you've written "no explanation or amendments to the tender documents shall be recognised unless in the form of a written addendum issued by the principal. All inquiries relating to this tender must be directed to Tony, the Art Gallery, Tony Morris and the technical inquiries to Daniel Paul", do you see that?---Yes.

And it's the case isn't it that during the tender process you issued a number of what you call RFI's didn't you, RF, RFI's?---I believe so, yes.

30

Do you know what RFI stands for?---Yes, request for information.

And you issued those, didn't you?---I?

Well, Kings did, yeah. Do you agree with that?---I'd assume so, yes.

So do you remember saying on a previous occasion that there were a number of RFI's that Kings issued up to the tender submission stage, they were, they were always emailed, always in writing, always tabled as every other competing body had to be privy to those same RFI's, do you remember saying that?---I said that?

40

Yes, do you remember saying that?---When?

At a compulsory examination before this Commission?---I can't recall it now, no.

I'm sorry, at a record of interview that you made, do you remember that?  
---(No Audible Reply)

You were asked some questions about the very matter that I'm asking you now - - -?---Right.

- - - back in September last year?---Right.

Do you remember making that statement?---Not now, no.

Let me show you a document then?---Thank you.

10

Just go to page 5 and just read to yourself from page, line 25 on page 5 down to the bottom of the page?---Okay.

And do you accept, is it, is it the case having refreshed your memory that Kings always emailed, always tabled RFI's so that all competing bodies or companies could see those same RFI's, is that the case?---That's what I've said there, yes.

Well, is it true?---It may not always be the case.

20

Well - - -

THE COMMISSIONER: Well, why did you tell the investigator that it was always emailed, always in writing and always tabled?---Well, depending on the, the level of the RFI or the inquiry.

MR STRICKLAND: You knew perfectly well, Mr Roche, that it would be highly improper to invite Mr Paul during the tender process come to Kings' offices to discuss the Art Gallery tender, didn't you?---No, I didn't consider it.

30

I beg your pardon?---No.

THE COMMISSIONER: Didn't consider it?---No.

MR STRICKLAND: Mr Paul, Mr Roche, I'm sorry, you gave this evidence at this inquiry on 21 June, 2012, page 274, line 18, question, "Would you have regarded it to be unusual for Mr Paul to have attended Kings Security to discuss the Art Gallery tender before that tender was awarded," your answer is, "Yes." Question, "Why?" "It'd be unusual." Question, "Why, yes why?" Answer, "Well, you wouldn't discuss something that's in process." Question, "Why not?" "Well, you wouldn't do it, you know it's not part of the process." Question, "But why wouldn't you do it?" "It just wouldn't be right." Question, "And why wouldn't it be right?" "Because it's in process, it's open." Question from the Commissioner, "It would be favouring one tenderer over another." Answer, "It could be seen as that, yes." They were your answers that you gave in June this year on oath. Were those answers the truth?---Those were my answers at the time, yes.

40

That's not my question. I know they're your answers, I've just read them. Were those answers the truth?---The truth to what?

THE COMMISSIONER: Oh, come on?---We, we may have had a meeting, we may not have had a meeting.

I think just proceed.

10 MR STRICKLAND: Your evidence that you have given, just given, that you did not consider whether it was highly inappropriate to invite Mr King, Mr Paul, to your offices during the tender process was a deliberate lie, wasn't it?---No, it wasn't a lie, no.

You knew it was highly inappropriate to invite Mr Paul to attend the Kings' offices to discuss the Art Gallery review tender didn't you?---It's not highly inappropriate at all. It happens every day in the consulting field and in tendering arrangements.

20 THE COMMISSIONER: Just leave this point, Mr Strickland.

MR STRICKLAND: Well, can I, well, can I just- - -

THE COMMISSIONER: I couldn't bear to listen to it any more.

MR STRICKLAND: You said before that it's a practice that happens. When has the practice happened before that you've invited a consultant on a security project to a meeting during the tender process?---I'm sure we've done that before.

30 But when?---Oh, don't ask me here and now, I don't, can't support that here.

I am asking you here and now?---Well, I can't give you that information.

You said before lunch, you said it's a practice that happens, and now you've repeated it. Can you name a single instance of it happening before?  
---No, I'd have to find that information for you.

40 Is it a practice that you, that Kings tried to obtain favours or assistance from consultants during the tender process?---Clarification on the tender or the specification was not unusual.

Was it, was it a practice of Kings to your knowledge to obtain assistance from consultants about the tender – the tenders that Kings were bidding for during the tender process?---You would often be in contact to ask questions, yes.

Do you remember, do you remember an employee called Ms Jarvey who was employed at Kings?---I certainly do.

And do you remember she told you on one occasion that she had been contacted by phone by an ICAC officer and that you got the number of the ICAC officer in order for you to contact that officer?---Yes, I think I can recall that.

10 And you told her something along the lines of – Dan, meaning Dan Paul, get investigated all the time so there’s no concern?---Sorry, did I say that?

Yeah, that’s what I’m suggesting you said?---And who said, who told you that?

Can you answer the question?---Sorry, are you saying I said that?

That’s correct. You said that to Ms Jarvey?---Did I?

20 Yes?---Sorry, could you repeat that again, please?

Yes. That you said to Ms Jarvey after she informed you that she’d been contacted by an ICAC officer, you said to her, “Don’t worry, Dan gets investigated all the time so there is no concern.”?---Yeah, well, that certainly doesn’t sound like a statement that would come from me.

So you deny saying that?---I do.

30 Okay. And do you remember an occasion when Ms Jarvey went to a compulsory hearing in relation to ICAC, in relation to this matter?  
---I, I know that she did, yes.

All right. And can I – and do you remember an occasion when you, you spoke to her after she had returned from that hearing?---I can’t recall it now, but- - -

Do you remember, do you remember speaking to her about the fact that she’d been to ICAC and had given evidence in a compulsory examination or in a private hearing?---I can’t recall it now, no.

40 Do you – leaving aside what you said- - -?---Yeah.

- - -do you remember, do you remember actually speaking to her about the fact that she had given, that she had come to ICAC and given evidence?  
---I’m sure it was raised in discussions, we were probably having a number of discussions with Ms Jarvey at that stage.

Isn’t it the case that you told Ms Jarvey that you’d lost trust in her because she had been to ICAC?---No, that is not the case.

Isn't it the case that she – you took her handbag and led her out of the building and told her to come back on Monday?---Mr Strickland, I'd hate that we confuse things here with a matter that went before the Australian Fair Work- - -

THE COMMISSIONER: Just answer the question.

10 THE WITNESS: Well, I'm sorry, we're conflicting things here.

THE COMMISSIONER: Look, Mr Roche, I decide these things, not you. Answer the question?---We have an employment matter here that's- - -

Answer the question?---Could Mr Strickland repeat the question?

If you don't answer the question I'm warning you, you will be held liable, you will be reported for contempt of the Commission?---I understand, Commissioner.

20 Now, just answer the question?---Mr Strickland, could you please repeat the question?

MR STRICKLAND: There is an occasion when she came back from the ICAC hearing when you grabbed her handbag and you asked her to leave the building and told her to come back to work on Monday?---No, I don't believe that – that incident did not occur at that time and I think somebody needs to – we've got wrong days and we've got wrong times here because I recall that occurring about 8.00, 9 o'clock in the morning.

30 And were there occasions when you – as a result of her having gone to ICAC, you arranged for her to be locked out of her computer system so she could not access it?---It had no relationship with this inquiry.

Could the witness please be shown Exhibit 2, Exhibit 2, I think it's tab 2.

MR LLOYD: What number?

40 MR STRICKLAND: Exhibit 2, tab 2. I'm sorry, I beg your pardon, sorry, Exhibit 2, tab 1, I beg your pardon. I'm sorry, I'll make it clear, 2 and 1, Exhibit 2, tab 1 and tab 2. I asked you about this document that is a tax invoice, Exhibit 1, Exhibit 2, tab 1, that is a tax invoice from Security Consultants International. It's dated 25 January, '07, in relation to the development of a Policy and Procedure manual. Do you see that?---Yes.

And I asked you on 21 June, 2012, do you know if that was the manual – or I asked you some questions about that and if you could recall what the payment related to, and you said, this is at 270, that the payment related to the preparation of a draft manual. Do you recall that?---I do.

I want to suggest that that evidence was deliberately false.

THE COMMISSIONER: Do you deny that?---Correct.

MR STRICKLAND: Were you ever told by Mr Diekman that 11,000 was paid to repay gambling debts?---No, he didn't.

Mr Commissioner, could you just excuse me for one moment.

10

Final question, Commissioner. Did you, did you ever see a manual or a draft manual which was the subject of that tax invoice?---Yes, I have.

Thank you, Commissioner, they're the questions I have.

THE COMMISSIONER: Yes, thank you. Are there any questions for Mr Roche arising out of the latest set of questions that he's been recalled, in his latest evidence he's been recalled to give?

20 MR LLOYD: Nothing from me, Commissioner.

THE COMMISSIONER: No questions?

MR MAHER: I do, Commissioner, yes.

THE COMMISSIONER: I beg your pardon?

MR MAHER: May I ask some questions of Mr Roche?

30 THE COMMISSIONER: Yes, proceed.

MR MAHER: Mr Roche, you were just asked some questions about an incident in relation to Samantha Jarvey where it was put to you that you grabbed her handbag and locked her out of the building I think was the question.

THE COMMISSIONER: You don't- - -

40 MR MAHER: Did such an incident occur?---Ah, something to that effect, yes.

Do you remember when it occurred?---No, I don't, it may have been 12 months ago, 18 months ago. We certainly have it fully documented, yes.

Do you remember how long it was after she returned from the ICAC compulsory hearing?---No, I don't, but certainly she didn't, she didn't come to the ICAC inquiry that morning, that's for sure.

Do you recall why you did what you did at the time?---Ah, can I say that I've employed hundreds of people in my time and she's probably one of the - a very difficult one at that and we had problems with her that are well documented.

Do you want to - could you please tell the Commissioner - - -

10 THE COMMISSIONER: Mr Maher, you can stop. We're not proceeding on this.

MR MAHER: Thank you, Commissioner.

Mr Roche, you were asked some questions in relation to the - - -

THE COMMISSIONER: When I say not proceeding there won't be, there will be not adverse findings on this issue.

20 MR MAHER: Thank you, Commissioner.

You were asked some questions, Mr Roche, in relation to the certified professionals on the Concept 4000 and a system in relation to the UWS tender. Do you recall those - - -?---I do.

- - - questions? And in particular in relation to those people who are sub contractors?---Yes.

30 Can I show you a document, please. Mr Roche, I'd ask you to assume that that's part of Exhibit 1 tab 24 that's before the Commission?---Yes.

Now have I provided you with a copy of that exhibit and have you made some writing and some markings on it?---Correct.

And can you tell the Commission - you've put some asterisks with the word sub contractors and some arrows before people?---Correct.

40 Who those people are?---They are the same four people that I approached Inner Range to have their accreditation transferred back onto Kings profile in respect of the UWS tender.

Thank you. And there are I think seven other names that you've written down the side of the page starting with the name David Hunt?---Yes.

And excluding those four sub contractors. There are seven names including David Hunt. Can you tell me who those seven people are?

THE COMMISSIONER: Well I can read it. Do we have to go through this? We haven't got time.

MR MAHER: It was the only question I was going to ask, Commissioner.

THE WITNESS: They were all full time employees of Kings at the time.

THE COMMISSIONER: Well you can tender this and the names of the persons can be seen.

MR MAHER: Thank you, Commissioner. I tender that document.

10

THE COMMISSIONER: Yes. The list of accredited Concept 4000 professionals of Kings Security Group with annotations made by Mr Roche is Exhibit 202.

**#EXHIBIT 252 - LIST OF ACCREDITED CONCEPT 4000 PROFESSIONALS MARKED UP BY MR ROCHE**

20 MR MAHER: Mr Roche - - -

THE COMMISSIONER: Sorry, 252.

MR MAHER: Mr Roche, you gave some evidence and you answered questions by Mr Strickland in regarding the sub contractors to the effect they've been employed by Kings previously?---Correct.

What periods of time were those for the sub contractors being employed by Kings?---Three to five years.

30

Thank you. And whilst they were sub contractors for Kings did they work for anyone else?

No, they did not.

THE COMMISSIONER: How do you know?---I employed them full-time.

Well what, proceed.

40 MR MAHER: (not transcribable) ask the same question, Commissioner.

What hours of work did they work for Kings when they were sub contracted to Kings?---The same as our other employees.

And what hours are they?---7.00, 7.00am to 3.30.

Thank you. And who paid for the certification of those four sub contractors?---Kings Security did.

Thank you. Could the witness please be shown Exhibit 1 tab 44. Now, Mr Roche, that exhibit includes an email from you to Daniel Paul dated 13 November 2007 and refers to a conversation at Kirribilli club the previous week. Do you see that?---Yes.

Can you tell the Commission the circumstances of which you came to have that conversation?

10 THE COMMISSIONER: Does this arise out of the questions that Mr Strickland asked?

MR MAHER: It does arise out of - - -

THE COMMISSIONER: No. Then I won't allow it.

MR MAHER: It arises out exhibits before a Commission.

THE COMMISSIONER: But that was in his previous evidence.

20

MR MAHER: I think it was in fact in Mr Diekman's evidence, Commissioner.

THE COMMISSIONER: I beg your pardon?

MR MAHER: I think it was in fact in Mr Diekman's evidence that this was tendered this document.

30 THE COMMISSIONER: I said I will allow question that arise out of the latest evidence.

MR STRICKLAND: Commissioner, can I just say, Mr - what was on the last occasion Mr Roche gave evidence no-one did have an opportunity to, I think the arrangement was that no-one had, had a chance.

THE COMMISSIONER: Yes, thank you for pointing that out. Yes, proceed.

40 MR MAHER: Thank you, Commissioner.

Do you remember the circumstances in which you came to have that conversation with Daniel Paul at the Kirribilli club?---Kings Security were contracted at the time upgrade the video surveillance system at the Kirribilli club of which Mr Daniel Paul was the consultant to the club. I had met him there at the club that afternoon for the witness testing and the handover of the system to the club. He as, he as the client representative and I as the contractor representative.

And at what stage of the process does the witness testing take place?---At completion.

Thank you. Commissioner, my question remains to a matter with Mr Byrne, a minor matter that I need to, that I put to that witness if I, if I could call his evidence (not transcribable)

THE COMMISSIONER: Sorry, I'm not sure what you're saying, Mr Maher?

10

MR MAHER: I'm sorry, Commissioner. I have one question for the witness that doesn't arise out of questions asked of him.

THE COMMISSIONER: Yes, that's all right. You can proceed.

MR MAHER: Thanks, Commissioner.

THE COMMISSIONER: Mr Roche, when - do you recall Kings Melbourne Cup function in 2011?---Yes, I do.

20

Where was that held?---Held at Royal Randwick Racecourse.

Has Kings ever held a function at Flemington Racecourse for the Melbourne Cup?---We never have.

Thank you. Commissioner, there's one last matter which I have to get a document in relates to a question asked by Mr Strickland regarding the, the Daniel Paul document which I don't have with me and I'd seek your indulgence to have it brought to the Commission to recall the witness to showing that document.

30

THE COMMISSIONER: This afternoon?

MR MAHER: Yes. It's not far away.

THE COMMISSIONER: All right. Yes. Mr Strickland.

MR STRICKLAND: I have nothing.

40 THE COMMISSIONER: Yes. Well Mr Roche, you're excused for the time being from the witness-box. Your counsel wishes to ask you a question later so you'll be recalled?---Yes, Commissioner.

You may leave the witness-box.

**THE WITNESS WITHDREW**

**[3.07pm]**

MR SMITH: 232 being the statement of George Chrobak the annexures in that have a large amount of confidential information. Can I deal with that in this way is to prepare as we have in the past a schedule and then to seek a suppression order on the basis of that schedule so it's not to take up your time today.

THE COMMISSIONER: I appreciate that, thank you.

MR SMITH: Thank you, Commissioner.

10

MR STRICKLAND: Commissioner, if, if Mr Roche's counsel needs 5 minutes it might be - if it's convenient to do it now I can indicate the only, the only other witness to be called is Mr Paul. I shouldn't be more than ten to 15 minutes with him. I'm not sure about other counsel but and then I can just ask my team if there are other documents that are required to be tendered.

THE COMMISSIONER: Very well. How long would you need to get to the documents, Mr Smith?

20

MR SMITH: I'd say 10 minutes, Commissioner.

THE COMMISSIONER: All right. We'll adjourn for 10 minutes.

### **SHORT ADJOURNMENT**

**[3.08pm]**

MR STRICKLAND: Commissioner, I don't think the documents have arrived yet but my friend has advised me what it is, is a draft manual which is the subject of the questions. I haven't seen it, I'm not going to object to it being tendered but that's the document so - but I think we should just - - -

30

THE COMMISSIONER: Well, Mr Maher can provide it to the Commission on Monday.

MR STRICKLAND: I think it might come, it may come before 4.00.

MR MAHER: I expect it to, Commissioner.

40

THE COMMISSIONER: If it comes before 4.00 good and well, if it - if it comes before we stop good and well, otherwise you can provide it to us on Monday and we'll make it an exhibit.

MR STRICKLAND: As I understand it the evidence of Mr Roche is that that is the manual or draft manual that he says he saw.

MR MAHER: That's so, Commissioner.

THE COMMISSIONER: I beg your pardon? Did somebody - - -

MR MAHER: I think Mr Maher said that is so.

THE COMMISSIONER: Oh, right.

MR STRICKLAND: Could I tender as part of an addition to Exhibit 1, tab 53. It's a cheque that should be part of that exhibit.

10

THE COMMISSIONER: The cheque dated 14 February, '07 made out to cash in the amount of \$5,186.33 shall form part of Exhibit 1, tab 3, 53.

MR STRICKLAND: I recall Mr Paul. I understand, Commissioner, Mr Lloyd may ask a few questions and then I shall ask a few questions.

THE COMMISSIONER: Would you swear Mr Paul in please.

THE COMMISSIONER: Yes. The section 38 previously made continues to applied.

**THE SECTION 38 ORDER PREVIOUSLY MADE CONTINUES TO APPLY**

10

THE COMMISSIONER: Yes, Mr Lloyd.

MR LLOYD: Mr Paul, could you be shown Exhibit 30 and you'll recall that email and you'll recall the evidence of Mr Nguyen?---Yes.

And Mr Nguyen in relation to Westfield said that you did some work for witness testing I think was his expression?---Yes, that's right.

20 Could you just tell us what, what was that work that you performed?---It was more than witness testing, albeit it was invoiced as witness testing. John Nguyen was doing work for Westfields all over Australia, at different Westfield centres, and the installations had to take place through the night so I used to fly into different locations to give his installation team guidance on where to place cameras and what we were trying to achieve and that, for that I charged the contract, John Nguyen.

30 THE COMMISSIONER: Mr Lloyd, that was never put to Nguyen, I mean, I don't know why, but I mean - - -

MR LLOYD: He effectively said that, Commissioner, I'm just seeking some expansion.

THE COMMISSIONER: Yes, I'm not, I'm just drawing it to your attention for whatever that's worth, that's all.

MR LLOYD: I understand, Commissioner.

40 I want to show you very quickly Exhibit 17, tab 9 and you can see that these were the scoring sheets where the list of questions is conveniently found? ---Yes.

I just want to take you to question 7?---Yes.

Qualify what version of software is being offered by you for the CCTV. Who drafted that question?---I did.

Did you discuss that question with Ms Tregeagle?---Yes, I did.

And tell us what you said and what she said?---On the, on the tender they, they submitted that they were putting in Pelco 2, version 2, Endura 2 and - this is Kings, and as such I hadn't been told that it would be released yet so at that time I looked at it and spoke to Anne and said we should, she should get clarification as to whether it's actually available.

If that could be returned?---Thanks.

- 10 You'll recall most recently Mr Roche being shown Exhibit 45 and perhaps you could be shown that?---Thank you.

And in short he recalled a discussion concerning the increased prices resulting from extended warranties. I just want to show you one document that Mr Roche wasn't shown, it's Exhibit 50?---Thank you.

- 20 And you can see that the (not transcribable) email on page 732 is an email from you to Adam Byrne copied to Peter Guilfoyle and it goes on and contains in there the list of prices and if you want to compare them feel free to do so but if you look at the device product heading and there listed going down and you see the Kings price to UWS, they're the prices that you've increased?---Yes.

And just above that I see, "I will also contact each of the relevant manufactures/wholesalers to seek extended warranties."?---Yeah.

Now, was it your understanding that there were already extended warranties or not?---No.

- 30 And is that what was being referred to by the warranties to justify the increase in price?---That's correct. The, the, the column on page 725 goes into the detail of extended, needing extended warranties from Kings for their part and, and the email on page 732, I then go and seek extended warranties from the manufacturers, so that effectively they get a complete extended warranty package, if you like, from, for UWS.

- 40 And what cost is involved in an extended warranty?---Well, we're extending the warranties for three years, right, so normally they come with a one-year warranty. In most cases we'll, we'll, you know, drive the manufacturer and the, and the integrator to give us three to five years and so that means that for, for Kings, they would have to turn up three years down the track or four years down the track and still go and service that device if it breaks down without any cost, so, without any cost to the UWS. So it's substantial cost savings for the UWS.

And did you think you had authority to adjust this price upwards, as you've done?---Yeah, of course, yeah, I was given authority from Adam Byrne.

And is that minuted anywhere?---Yes, it is. It's in the, in the minutes ah, I don't, I don't know the tab number but in, in one set of the minutes there, yeah.

Sure. I have nothing further.

THE COMMISSIONER: Yes. Does anyone else wish to question Mr Paul?

10 MR LLOYD: I do have one other, Commissioner, I'm sorry.

THE COMMISSIONER: Mr Griffin has.

MR LLOYD: I do. Mr Paul, did anybody from the Art Gallery or the Zoo or UWS or Woollahra Council give you any policy about the provision of gifts?---No, never.

THE COMMISSIONER: About the provision of?

20 MR LLOYD: Gifts.

THE COMMISSIONER: Gifts?---No, never.

MR LLOYD: And did anybody ever tell you that by doing work for those organisations you'd become a public official?---No. I've not been able to find the word public official anywhere else.

THE COMMISSIONER: Better complain to Parliament about that.

30 MR LLOYD: Parliament tells us that. I have nothing further.

THE COMMISSIONER: Yes. Mr Griffin?

MR GRIFFIN: Commissioner, the questions I wanted to ask did not arise from anything this witness has said today, they arise from the change to the terms of reference which was made yesterday, particularly in respect to assisting Q Technology Group.

40 Mr Paul, can I ask you in respect to your dealings with Q Technology, did you understand Q Technology as the supplier of both the Verint product and the Pelco product?---Yes, they did.

To your knowledge, did Q Technology staff have the technical information and expertise in relation not only to the cameras but also to the network components such as recording hard drives and analytics?---Yes, indeed, yep.

Is the fact that they had that knowledge the reason why you sought their help to firstly build and then refine the budget for the Art Gallery project?

---Yeah, correct, and in particular that they held both products, so that I wouldn't need to go to multiple, many many different wholesalers for that, for those particular products.

Did you make any- -?- -for budgeting.

Sorry. Did you make any recommendation that the Art Gallery purchase products from Q?---No, not at all.

10 And am I correct in assuming that that was the role of the integrator?  
---Correct. Q Video's a wholesaler so the Art Gallery wouldn't buy direct from, from a wholesaler and have no influence over who the contractor would buy from.

Thank you, Commissioner.

THE COMMISSIONER: Mr Strickland?

MR STRICKLAND: I tender an email from Daniel Paul to Mr Thompson  
20 dated 9 September, 2010, entitled As Discussed. I tender that document.

THE COMMISSIONER: The email from Mr Paul to Mr Thompson of 9 September, 2010 is Exhibit 253.

**#EXHIBIT 253 - EMAIL FROM MR PAUL TO MR THOMPSON  
SENT ON 9 DECEMBER 2010 AND INVOICE ATTACHMENT**

30 MR STRICKLAND: I tender- - -

THE COMMISSIONER: And is that a chain?

MR STRICKLAND: No, it's just a single email.

THE COMMISSIONER: No, it's not, yes.

MR STRICKLAND: With attached- - -

40 THE COMMISSIONER: With the metadata attached?

MR STRICKLAND: That's correct. I tender a tax invoice from Security Consultants International, invoice 89101.

THE COMMISSIONER: The invoice from Security Consultants International to Q Video, number 89101, is Exhibit 254.

**#EXHIBIT 254 - INVOICE NUMBER 89101 DATED 8 SEPTEMBER 2010 WITH METADATA**

MR STRICKLAND: Could the witness also be shown Exhibit 125 and Exhibit 126?---I haven't got anything shown to me yet.

The last two exhibits plus 125 and 126 be shown?---Thanks.

10 Commissioner, the, the last invoice is Exhibit 25 - - -

THE COMMISSIONER: The last invoice is 254.

MR STRICKLAND: Thank you. So can I just ask you about Exhibit 253 and Exhibit 254. This is an email - - -

THE COMMISSIONER: Which one?

20 MR STRICKLAND: Exhibit 253 is the email from yourself to Mr Thompson dated 9 September 2010 which has an attachment Q Video Consultancy Services and the attachment is the invoice number 89101. And if you look at the metadata they're sent at the same time. 2.41am. Do you see what I'm asking you about?---Yeah. I'm not a metadata expert, I don't know what I'm looking there, so I just don't understand it, yeah.

Well the - what I'm asking you first, if we look at the metadatas, do you recall forwarding to Mr Thompson the tax invoice 89101 dated 8 September 2010 which is Exhibit 254?---No, I don't recall it.

30 Do you accept that you did forward him that tax invoice?---No.

You don't accept that?---I don't, I just, I don't recall it, so no.

You don't accept it? Excuse me, Commissioner for one moment. Do you have any - assuming, I want - assuming you did send that tax invoice can you explain sending a tax invoice for 27,500 for described at the provision of consultancy services stage 4?---No, I don't, I don't know that we're allowed to assume, I got told off for assuming once before here so.

40 THE COMMISSIONER: Mr - don't be clever, Mr Paul, just answer the question, please?---Can you repeat the question then?

MR STRICKLAND: Assuming that you did email this tax invoice to Mr Thompson can you explain the circumstances in which you sent this tax invoice described as the provision of consultancy services stage 4 training for tender submissions?---I don't recall it so no, I don't, I can't recall it.

But assuming you did send it, can you explain it?---But I, I don't recall it so I can't explain it if I don't recall it.

If you look at Exhibit 125?---Yes.

Which is also an invoice, same invoice 89101, the same date but that's for, I'm not including the GST figure - - -?---Sure.

- - - but 6,875?---Yes.

10

And then if you go to - sorry, just, just focusing on that. That, that appears to be exactly the same, sorry, it seems to be for the same description except that instead of saying stage 4 it says stage 4 of 7 - - -?---Right.

- - - but it's for the same, at the same place and the same date. Do you have any explanation why you sent to tax invoices the same number - - -

THE COMMISSIONER: He doesn't - he think denies sending this tax invoice.

20

MR STRICKLAND: Excuse me, one moment. I'm sorry.

See what the, the metadata indicates, that is from invoice 8910 that this - - - ?---101 you mean.

Exhibit 29, Exhibit 254?---Yeah, 89101.

89101, that's right?---There's two of those 'cause Exhibit 125 is the same invoice number.

30

I'm just looking at Exhibit 254 that's all which has a one page metadata. Now if you can turn over the page which has got path name and it's got evidence Thompson PST top of personal folders inbox as discussed, the, that indicates that that, this tax invoice was received in the inbox of Paul Thompson?---Does it? Yeah.

That's correct. That's why I'm asking you to accept that that is the case. Can you explain why you sent Mr Thompson two invoices the same number on the same date but for different amounts?---Yes. Previously we talked about a large sum, 20, I think it was \$27,500 invoice that was broken down into four parts.

40

That was the year before?---Yeah, yeah, yeah, but there was confusion about payments of, of different things and I don't recall ever sending these albeit you say that that metadata proves that it was sent and whether it was chasing a bill that had already been paid or re-invoicing I, I don't recall the detail of it.

THE COMMISSIONER: Mr Strickland, what is the position of the metadata?

MR STRICKLAND: The officer who created the metadata is (not transcribable) is not here.

THE COMMISSIONER: All right. Well, I can tell you that I'll adjourn this – if this is denied I'll adjourn this inquiry to whatever date is necessary to get this evidence in.

10

MR LLOYD: Commissioner, we're happy to accept the metadata.

THE COMMISSIONER: Mr Griffin?

MR GRIFFIN: I don't act for Mr Thompson.

THE COMMISSIONER: Oh, no, you don't, that's true.

MR GRIFFIN: I have, I have- - -

20

THE COMMISSIONER: I beg your pardon.

MR GRIFFIN: I have no submission on the matter.

THE COMMISSIONER: I know, you're quite right. Is there representation for Q Videos?

MR GRIFFIN: Commissioner, I made an application which you rejected on that basis.

30

THE COMMISSIONER: That's correct, I said based on conflict.

MR GRIFFIN: And with respect I don't think, Commissioner, at the time you were aware that Mr Stokes was the sole director of all subsidiary companies and the effective owner of the company.

THE COMMISSIONER: Yes. This doesn't apply to Mr Stokes but it applies to the company.

40

MR GRIFFIN: Yes, it does apply to the company and I have no instructions because - - -

THE COMMISSIONER: No.

MR GRIFFIN: - - - as a result of your ruling I haven't - - -

THE COMMISSIONER: That is correct.

MR GRIFFIN: - - - trespassed on that area.

MR STRICKLAND: Could I just indicate, Commissioner, that Ms White can give evidence if required, well, I assume it will be accepted, that she downloaded the email from the QVS data computer.

THE COMMISSIONER: Well, then Mr Lloyd, that reinforces your acceptance I take it?

10 MR LLOYD: We have no problem.

THE COMMISSIONER: All right. Well, then proceed, Mr Strickland.

MR STRICKLAND: So do you say that the best explanation or the only explanation you can offer is that what you have done is you're resubmitting - I'm sorry, you said this was somehow related to the 2009 - - -?---I believe so, I, I don't recall the detail of it. It says training and so I'm - - -

20 But you were paid for the, you were paid for the 2009 - - -?---Well, I don't, I don't recall that though. I don't have that in front of me, I, I assume I have been in that we've gone through all of that but at the time that I was chasing this I, I still believed there was outstanding money.

If the witness could be shown - - -

THE COMMISSIONER: Why did you believe there was outstanding money?---Now we're going back two years, I don't, I don't recall the detail.

30 You've sent an invoice and you've been paid and then suddenly you send another invoice for a higher amount, why, do you say - - -?---It is a higher amount? I don't know.

Well, you can see it, it's in front of you?---A higher amount to the one that was previously paid.

Yes?---When was the one previously paid, two, three years ago.

40 You said it was paid?---No, I don't recall when it was paid. Mr Strickland said it was paid.

MR STRICKLAND: Could the witness be shown Exhibit - - -

THE COMMISSIONER: I thought you said it was paid, Mr - - -?---No, Mr Strickland said it was paid, I don't recall it. I don't have the detail in front of me.

MR STRICKLAND: I'll take you to the detail. Could the witness be shown Exhibits 85, 86 and 87. Now, I've asked you about these bank records before?---Yes.

And you've accepted this before?---Yeah.

That's okay, we can do it again, at page 1181 of the transcript but at Exhibit 85 you, you received a payment from QRSciences, Securities, on 10 September for \$9.075, do you see that?---In relation to which invoice?

10

Well, we've gone through all this before?---Yes, I know.

In painstaking detail?---Yes, I know.

It relates, it relates to the invoice in 2009 - - -?---And I accept that those invoices were paid.

That's right. So accepting that those invoices were paid then how do you explain sending another invoice for 27,500 in relation to stage 4 training for tender submissions in Sydney July 2010, that's the description of it?---Yeah, I accept that they were paid back then - - -

20

Yes?--- - - - and at the time that these were drafted or, or discussion was had I didn't recall whether they were paid so maybe I, I'm just surmising that me and Thommo had a discussion and he said well, re-invoice us if they haven't been paid and that's what's gone on but this was never paid, the new ones were never paid.

30

Yes, but you see the description is different, the description you've, you've done for the matters you've already been paid don't refer to training in Sydney in July 2010, they refer to training done in four different states, in February, March, April, May 2009?---Sure, but I'm assuming that the, that the re-invoice date being September 2010 he would, he would want a representative description that was more current rather than going back 2009 because they, they're accounts would be why didn't you process this, you know, a year or two back or whenever, whenever the original one was.

40

THE COMMISSIONER: Well if this was an innocent invoice Mr Paul, why does it bear the same invoice number 89101 as the earlier one? ---Because I don't - well I don't recall the detail of it.

No, no, I want really - - -?---But I'm guessing, right, I'm guessing that the - - -

No, I don't want - - -?--- - - - that there was a break up - - -

If you don't know just tell me you don't know?---Okay. I don't know.

You're not able to explain why the invoice number is duplicated?---Do you want me to guess or not?

No, I don't want you to guess. I'm just asking you if you can explain why the invoice number is duplicated?---I'm happy to give you my best, best estimate of why.

10 All right. Give me your best estimate of why?---That, that, that the \$30,000 one ie the one with the GST 30,250, that's Exhibit 254 looks like a total lump sum and again confusion, I would have wanted to break it down because of this discussion with Thommo. Now whether it was in complete error, which it looks to be, it was never paid, neither of them were ever paid.

I don't understand why that explains why the invoice number is the same. That looks to me like a deliberate attempt to, to duplicate the earlier invoice except give it a much bigger amount?---They're both the same date. They're both 8 September, 2010. So there's none - - -

20 Yes, I know?--- - - - there's not one that's earlier than the other.

Are you, are you saying that both were generated on the same date?---Yes. Or I've used one as a template on the same date and it's exactly the same, the same detail except, except that the price is different and the description differs slightly. The actual invoice number and the date are the same.

30 Well I still – and then can you, I don't actually understand your explanation as to why the invoices are – appear to be for the same services but are for two different amounts?---As I said my best guess is that I was trying to break it down because Thommo said don't give me the, the larger invoice.

I don't know what that means, attempt to break it down, what does that mean?---Break it down into parts, smaller - - -

What parts?---Exactly the same reason that we, we broke down the previous one, so that he could process smaller invoices. He couldn't process one large invoice for whatever reason. But again, they're in error.

40 But then why do you put, why do you give it the same invoice number then? Why don't you give it a different invoice number for the aggregate amount and separate invoices for the make up of that aggregate amount?---It was in error anyway, but maybe I should have put A, B, C, D, I don't know.

MR STRICKLAND: Mr Paul, there is no doubt is there that you did not provide any training to QVS in relation to tender submissions in July 2010? ---Correct.

And you didn't do any training for tender submissions for QVS in 2010 did you?---I don't recall when I did the training. I don't have the dates in front of me.

I'm putting to you you did not do any training for tender submissions for QVS in 2010?---Well I can't answer that because I don't recall the details. I don't recall the dates. I don't really even recall when Paul Thompson left the company.

- 10 The only evidence you've ever given about training was 1) you said that the \$25,000 was – which was broken down into four amounts was for training. You then recanted that evidence and said that was for something else and for training related to an earlier invoice for a letter amount. That is your only evidence you've given about the training you've actually rendered QVS. Do you accept that?---No, I don't recall the details of it, sorry.

And I want to suggest to you that by rendering tax invoice 89101 that that was a deliberate attempt by you to obtain money from QVS for work that you knew you had not done?---Not at all.

20

And that you were attempting to disguise or you were attempting in this invoice to obtain further money from QVS in relation to favours or assistance you'd provided QVS either in the past or that you had held out that you would give them in the future?---Not at all.

It's the case isn't it that on several occasions you've received cash from Mr Diekman or from Kings in return for favours that you gave Kings in obtaining government contracts?---No.

- 30 You gave evidence in answer to some questions by Mr Lloyd a short while ago that the reason you asked the Tender Evaluation Committee to ask the question of all the – of the three tenderers as to what version they were tendering on was because you wanted to get clarification as to when Pelco Endura 2 was available. Do you remember giving that evidence?---Yes. In relation to, yes, yes.

And I take it that's because you regarded that as a critical fact in determining which tenderer would ultimately be awarded the contract?

---That wasn't up to me. It was up to the tender evaluation panel.

40

I understand that. But do you agree with what I've put to you or not?---It was important to us but no, it wasn't my decision.

It was an important fact if there was going to be a resubmission of the tender on Pelco Endura 2 for you to know in order to advise the Tender Evaluation Committee whether Endura 2 would be available or not, whether it was currently available?---That happened, that happened before the, before the meeting we, we developed those questions. I didn't know whether they

were going to – what they were going to come back with. So no, I disagree with that completely.

Disagree with that, okay. You disagree completely with the fact that it was important for you to know whether Pelco Endura 2 was now available, as at - - -?---No, go back to your question. You broke it down into, into two or three parts.

Just answer that question then?---Sorry, ask the question again?

10

I'm suggesting to you that, that it follows from you seeking clarification as to whether Pelco Endura 2 was currently available that that was a critical fact for you to know to properly advise the Tender Evaluation Committee? ---It was an important fact.

Okay. And so when – you're aware aren't you that ACG in its re-submission, retendering letter stated that Endura 2 was not available until April 2009. Do you recall that letter?---Vaguely, yes.

20 Excuse me. If the witness please could be shown Exhibit 17. If you just go to tab 12?---Yes.

That's a letter you read isn't it, the letter at page 64, a letter from - - -?---I don't, I don't recall reading this, no.

Well this was what was submitted by ACG – it's revised tender?---Right.

30 THE COMMISSIONER: You must have read it?---Yeah, so if their – well I'd need to refer to my report as to whether this was the document. I don't recall it. Yes, I assume so.

MR STRICKLAND: Well this document, that is the letter which contained the revised tender was ultimately what you were deciding whether you were going to accept the Kings bid, this is the revised bid - - -?---On what date, what date are you talking about?

Look at the date on the letter, it's 3 March, 2009?---Right. But it wasn't sent to me. No, it's 20 February, 2009.

40 No, you're on the wrong page. Exhibit, it's tab - - -?---Well that's what the cover says.

THE COMMISSIONER: It's page 64.

MR STRICKLAND: Page 64?---Right.

You read that letter I take it?---Right.

Did you read that letter?---I just read it, yes.

No, that's not my question. Did you read that letter?---I would have read the content of it at the, at the time, yeah, I assume so.

10 Yeah. And so did you ever – in the second interview on 5 March when you were interviewing Mr Grubisic, did you ever tell him that the information that he wrote in this letter, that the product was not yet available until April 2009, was in fact incorrect, that in fact it was available now?---I don't know when this letter was received, whether it was given to us at the- - -

THE COMMISSIONER: But it's- - -?---Sorry?

It's dated 3 March?---Yeah, I know it's dated the 3<sup>rd</sup>, that doesn't mean we received it on the 3<sup>rd</sup> and it would have been addressed to Tony Morris, not to me.

Mr Paul- - -?---So I don't recall, I don't recall getting it until- - -

20 Are you trying to wriggle out of the fact that you are part of the evaluation panel?---Not at all, of course I was part of the evaluation panel.

And that as part of the evaluation panel and as the person – the only person there who had the technical knowledge to properly evaluate these tenders, you must have read this letter very carefully indeed?---No, I don't know when I read it, whether it was on the day or whether it was- - -

I'm not asking you when you read it?---Well, you- - -

30 I'm asking you whether you read it when, when the revised tender of ACG was evaluated?---Sorry, weren't they given – didn't you say earlier- - -

Do you mind answering the question?---Sorry?

Do you mind answering the question?---Well, I need to, I need to, I need to ask a question before I can answer that. Weren't they given 29 hours to respond, therefore that would have turned up on the, on the day?

40 Mr Paul, just answer my question, please?---What's the question?

I won't ask you again, I will simply draw inferences from your failure to answer my questions?---Well, I'm sorry, you need to, you need to repeat the question. I don't remember the question.

Proceed, Mr Strickland.

MR STRICKLAND: I want to put to you that you never told Mr Grubisic in that second meeting that the information contained in his letter of 3

March, 2009, that Endura 2 was not yet available until April 2009 was inaccurate?---I don't recall what I said to him.

THE COMMISSIONER: Well, did you tell him that, that his information contained in his letter of 3 March, 2009, is not correct- -?---I don't recall.

- - -about the Endura 2?---I don't recall.

10 But surely that is something that would be so important to Mr Grubisic?  
---No, because when he turned up on the 5<sup>th</sup>, he turned up staying he didn't want to do the Pelco solution and he gave us that 1.9 to \$2 million price.

MR STRICKLAND: Could the witness please be shown Exhibit 2, tab 5. Mr Paul, you heard Ms Tregeagle's evidence, which I don't believe is challenged on this point, that this document was handed out by Kings personnel at the, on 27 February meeting or 27 February interview. Do you recall that evidence?---I recall the evidence.

20 And do you recall her evidence also unchallenged that the Kings people went through all the questions that were asked of them?---Oh, they would have.

The list of questions?---They would have, yes.

30 Yeah. And I want to suggest to you that at that meeting it was stated that the reason for the reduction in price from the first bid to the second bid was because Kings was now bidding on version, the revised bid was based on version 2 and that provided significant cost savings compared to their original bid based upon version 1?---I don't recall discussing why their price was reduced.

This document at page – look at page 41, please?---Ah hmm.

The second-last dot point under the heading Our Pricing – “Priced using version 1, version 2 provides significant cost savings.” That is a false statement, isn't it?---I don't know, you'd have to ask Charlie or, or Peter. It's not, not for me to decide whether that's a false statement. I don't know the pricing of the two different products.

40 THE COMMISSIONER: But you knew that it was not priced using version 1?---I beg your pardon?

You knew that it was not priced using version 1?---Which, when?

When this document was discussed in your presence, Mr Paul?---No, not at all.

What not at all?---I believed that they were, they were, they were ah, offering version 2.

Yes, so therefore you knew that in the original tender, Kings had not priced their tender using version 1. You knew that?---I, I assumed that they were, they were using version 2 all the time.

10 You knew that – do you mind answering my question again. I'll put it again. You knew at the meeting when this document- -?---What date?

The document, the tender proposal interview, 27 February, when that, that interview, when Kings circulated this document and spoke to it, when you had it in front of you and you read priced using version 1, you knew that was false?---I would not have read every word on this page, on this document on that, in that meeting.

You, you were the man on whom everybody relied?---I would not have read every, I would not have read every word in this document at that meeting.

20 It is – according to Ms Tregeagle Kings spoke to this document and they went through what is said in it, in the document and the pricing was obviously of fundamental importance to everyone. Do you really say that at that meeting you did not see these words, “Priced using version 1.”?  
---Correct.

MR STRICKLAND: Yes, I have no further questions.

30 THE COMMISSIONER: Well, I have some questions. Can Mr Paul please be given Exhibits 45 and 50. Now, if we start with Exhibit 45 first. Do you have it there, Mr Paul?---Yes, I do.

These prices related to additional goods that had to be supplied, as has been explained. That's correct, isn't it?---Yes.

And at the time you sent the invoice, sorry, not the invoice, the email, it was contemplated by everyone that this, these additional goods referred to in the email would be the subject of a variation to the contract?---Ah, potentially, yes.

40 The contract provided for warranties of five years?---The main contract did, yes.

Yeah. But when it comes to a variation as to any particular additional goods to be supplied, they were to be governed otherwise, that is to say they – the supply of the goods was to be governed by the general terms of the contract?---No. The general terms of the contract were for supply and installation- - -

Yeah---?- -and, and installation of existing equipment.

I understand that?---This was unit rates for additional equipment.

Yes. But it was, it was a variation to the contract and a variation to the contract means simply that what is varied is the, the description of the goods to be supplied and what has to be changed is in the price because additional goods are to be supplied but otherwise the terms of the contract apply to the supplier of the goods?---But the terms of the contract didn't - in this - this  
10 didn't include the extended warranties and, and - - -

Why do you say that?---Why because I asked Peter.

You asked Peter?---Yes.

Peter Roche?---Yeah. In a conversation.

What did you ask him?---I said well we discussed, we discussed the numbers and he said no, it doesn't, he said he got, he got those numbers  
20 from one of this staff and he'll go back and check and I said well you need to adjust it to accommodate the three year, three year extended warranties.

The, but these were variations to the contract, it wasn't a new contract independently of anything else, it was simply a variation to the existing contract?---No, they'd not supplied product before. Remember, remember UWS - - -

You've agreed with - look, Mr Paul - - -?---bought the product originally from the wholesaler.  
30

Let me just put this to you, this was a very, this was a variation to the contract and therefore whatever was supplied as a variation to the contract because it was a variation to the contract it meant that the five year warrantee term applied to these goods right from the beginning?---Well that's not what was, that was - it wasn't what was discussed there.

And you must have known that?---No. You're wrong

You are so experienced in the, in the field of contracting aren't you, you are very experienced in the field of contracting?---Consulting.  
40

Contracting as well because that's what you supervise as a consultant?--- And that's why, and that's why I asked the question did it include that and he said no.

Did you ask UWS?---Ask them what?

Whether these additional goods are to be supplied subject to a five year warranty or to be supplied subject to a one year warranty?---Of course. And who did you ask - - -?---Otherwise - - -

Who did you - - -?---Adam Byrne.

Just excuse me. Do you mind not interrupting me. It really - we will go much quicker. Who at UWS did you ask?---Adam Byrne.

10 I see. You asked him specifically what warranty period was going to apply to these goods?---no.

What did you ask?---In the general meeting that we had where it was minuted that I had authority to, to go and do the benchmarking exercise we - and, and, and check the prices of the unit rates of all the product that was coming in, the additional components that are listed here on 720, page 725, I said obviously we will need the, the product to, to come in at, with five year or three year, I can't remember the period, extended warranties and he said, yeah of course.

20

I see. Now when I read the Exhibit 45 I see nothing about extended warranties and no explanation to the effect that the increased prices are because of extended warranties, is that right?---'Cause it was a conversation that I had.

No, no. This is, this is not a conversation it's a document?---This is as a result of a conversation.

30 So you're saying are you that you omitted the reference to the extended warranties because you had referred to it in discussions with Mr Roche?  
---No, there was no, there was no intentional omission it was just, this was working, this was us working between, between, between the two of us to get the numbers right so that he can submit it.

But on your evidence as I understand it the purpose of this document Exhibit 45 is to set out the prices, and to explain why the prices were to be increased in order that the extended warranties could be obtained?---No, this didn't explain why it just, it, it was a conversation that Peter and I had so - - -

40

I'm talking about the document?---Yes. You're talking about the document - - -

Document is not a conversation. So just try and discuss it as if it's a document and not a conversation?---Right.

Now the, the document sets out you say the increased prices increased because of the extended warranties?---No, that's the result on the document. The document is a result of a conversation.

10 And what was the conversation?---The conversation was when, when we saw the, when I saw the numbers does that include the three years warranty and Peter said I don't know, I didn't put the numbers together, I'll check with the guys, came back to me, said no, it doesn't I said I'll adjust the, I'll adjust the numbers and throw it back to you and you can, you can have a look at it.

So you decided how much he should charge for the extended warranties?---I suggested, yes.

You suggested to him?---Yes.

Why didn't you wait for him to propose what he wants to charge?---It was a conversation that we had, I didn't, I didn't really give it much thought.

20 No, that's not an answer?---Sorry, I didn't give it much thought. It wasn't, it was, it was, it was normal practice type of thing and we were just having a chat.

Normal practice for the consultant to fix the prices not the supplier?---Not fix the prices, no.

It's not the normal price for the consultant to suggest the prices first is it? ---We were adjusting the prices to accommodate three warranties.

30 Just answer the question. Just answer the question, please?---Sorry, you'll need to ask the question again.

No, I won't. I won't play your game?---I'm not playing games.

Yes, I think you are. I've explained to you that before?---Yeah, and I said I've mentioned it I think this is an unfair process before.

40 Yes. Now, let's come to Exhibit 50. Can you look at Exhibit 50, please? ---I'm looking at it.

Now, this email doesn't say that if we don't get extended warranties the prices will be reduced, does it?---No.

And in fact although a statement is made that you're going to seek extended warranties, there's no attempt to connect the extended warranties to the price, is there?---In my view that speaks for itself.

All right.

MR STRICKLAND: Commissioner, I actually did omit to ask a couple of questions on the same topic, but it's a variation of what you asked. Might I just ask a couple of questions?

THE COMMISSIONER: Yes.

MR STRICKLAND: When you were first, when I first asked you about Exhibit 45, I suggested to you – this is at page 1035, I asked you if you  
10 agreed that if you had suggested to Kings to increase the price, that's in Exhibit 45, without instructions from UWS, that would be an act which was directly in conflict with the interests of your client, and you said, "Absolutely." Do you remember that?---No, I don't recall that.

1035, line 42. Your evidence when I first asked you about if you could explain why you had increased, why you'd suggested the increase in prices, the first explanation at 1031 was you did so on instructions from UWS and your first explanation was you did it because you needed to assist the contractor to massage the numbers, "To accommodate the needs of our  
20 documentation, in particular in relation to as built drawings."?---And I think I said warranties as well.

No, your very first explanation did not include warranties, but- - -?---Right.

But is it the case that you – these increases have nothing to do with accommodating documentation and as built drawings?---Oh, no, they would have, they would have included that as well, but the point is- - -

Sorry, sorry, hold on, hold on. Are you saying that's another reason for the  
30 increase?---No, predominantly the extended warranties.

I'm not asking about that, I'm saying is, is the reason, as you said earlier, for the increase in price was because to assist the contractor, that is Kings, to massage the numbers to accommodate as built and other documentation?  
---No.

That's not true is it?---No. It's for warranties.

And so the second component is you said that was done as part of an off the  
40 record conversation with the client, that's UWS, was that evidence correct?  
---I had conversations with Adam Byrne, yes.

An off the record conversation - - -?---Outside, outside of the main meeting, yes.

I want to suggest to you that that answer you gave at 1031, 1031, the one that I've just read, was deliberately false?---No, nothing's deliberately false. When I'm answering a question on the spur of the moment because you

don't give me much time to answer questions well then I'm trying to think of what the reason was back then three years ago or four years ago whenever it was. So you need to understand that it doesn't come to mind straightaway, I've got hundreds of different projects that I've worked on and this is what, going back 2007, it's five years ago.

Now what - - -?---Seriously.

10 The evidence you gave on a number of occasions in relation to Exhibit 45 was that you had received instructions from the client, that is UWS - - -? ---Yes.

- - - in relation to increasing that, having discussions with Kings to increase the price?---That's right.

And were you present in court when each of the three persons from UWS gave evidence?---Yes.

20 And denied receiving those instructions?---Giving those instructions you mean, not received.

Denied giving those instructions, were you present in court for that?---I was present, yes.

And do you say that evidence is false do you or incorrect, their evidence? ---Well, as I said to you originally they're not going to admit to an off the record conversation are they?

30 THE COMMISSIONER: Why was it off the record?---Pardon?

Why was it off the record?---You need to ask them that.

MR STRICKLAND: But you said - - -

THE COMMISSIONER: You said - - -

MR STRICKLAND: Sorry.

40 THE COMMISSIONER: In what sense was it off the record?---We had our meeting in the, in the, our main meeting with me, Peter, Steve Kuryj, Peter Guilfoyle and Adam Byrne, we talked about this and then when we went outside Peter - ah, Adam Byrne and I had a short conversation about it and he said yes, work with, work with Kings to, to get those extended warranties in.

MR STRICKLAND: And who were those people you just said?---Peter Roche, Steve Kuryj, myself, Peter Guilfoyle and Adam Byrne.

Not Leo Fincher-Johnson?---No, he wasn't in it, that's correct, I was incorrect originally saying that.

You were incorrect when you first said it?---When, when I said Leo was in it, yes.

THE COMMISSIONER: And why was that, why - - -?---When we went to the minutes his, his name's not on the minutes.

10 Why do you call it an off the record? What makes it off the record?---Well, it wasn't, the conversation between Adam and I outside that meeting was not minuted.

Why do you think it wasn't minuted?---Because we've finished the meeting.

MR STRICKLAND: I have nothing further.

THE COMMISSIONER: Yes. Your evidence is finished, Mr Paul, you may leave the witness box.

20

MR LLOYD: Commissioner, could I just ask two questions?

THE COMMISSIONER: Yes, certainly.

MR LLOYD: You were taken to Exhibit 17 tab 12, particularly to a letter of 3 March of '09 - - -?---Yes.

- - - addressed to Tony Morris - - -?---Yes.

30 - - - stating Endura 2 was not yet available?---Right.

It was suggested to you that you should have told Mr Grubisic in the meeting of the 5<sup>th</sup> that his letter was wrong?---I wasn't allowed to speak. I don't know that I've seen that.

Just listen - - -?---Sorry, sorry.

- - - to the question?---Sorry, sorry.

40 Was Mr Morris in the same meeting?---Yes.

Did he point out that Mr Grubisic had the wrong information?---No, he didn't.

He could have?---He could have, absolutely, it was addressed to him.

The Exhibit 50 you were just shown - - -?---Yes.

- - - where you put in the prices and you sent this email to Adam Byrne and Peter Guilfoyle and you say "I will also contact each of the relevant manufacturers wholesale to seek extended warranties"?---Yes.

If it was known to all that that was part of a, going to be paid of the head contract and you'd got that wrong, did Adam Byrne ever point that out to you?---No.

Thank you. Nothing further.

10

THE COMMISSIONER: Yes. You may leave the witness box now, Mr Paul?---Thank you.

**THE WITNESS EXCUSED**

**[4.24pm]**

THE COMMISSIONER: That concludes the evidence does it?

20 MR MAHER: Commissioner, I have that document now which I would seek to tender.

THE COMMISSIONER: Yes.

MR STRICKLAND: I think if Mr Roche is present I think it would be preferable if he at least said formally that this is the document he - - -

THE COMMISSIONER: I beg your pardon?

30 MR STRICKLAND: If Mr Roche is present - - -

THE COMMISSIONER: He's here.

MR STRICKLAND: I think it would be preferable he said something, Commissioner.

THE WITNESS: Certainly, Commissioner.

40 THE COMMISSIONER: Yes. Mr Roche, you're still under your oath.

THE COMMISSIONER: The section 38 order still applies to you.

**THE SECTION 38 ORDER CONTINUES TO APPLY**

10 MR MAHER: Mr Roche, you gave some evidence in answer to a question by Counsel Assisting the Commission in relation to a draft policy and procedure manual of the Sydney Area Health Service and you see there was a document before you. Can you tell the Commission what that document is?---It's an old document that's been in our system for a number of years. It's a document that is associated with the, the Northern Area Health master key system policy manual that I believe that Security Consultants International was commissioned to perform this by the Area Health. It's a draft, it's the only one I've got. I can't explain how we've got it, but it's certainly within our system.

20

THE COMMISSIONER: Well how many years has it been in your system?---I would say five to six.

How do you know that?---It certainly had a date on it, 2007.

It had a date on it?---Not on this document, as to when it was saved into our system.

30 Where did it say – where in the computer – I don't understand that. You better explain to where you saw this date?---Sorry. There's a file path to the actual document as to where – the date that it was saved in our system.

Well I, I would like to see that?---Yeah, happy to supply.

MR STRICKLAND: Could I just ask one question about it?

THE COMMISSIONER: Yes.

40 MR STRICKLAND: Mr Roche, do you say this is on Kings electronic computer system?---Correct.

And how long has it been on the electronic computer system for?---Since ever it arrived, 2007 or thereabouts.

Excuse me, Commissioner. I'm just instructed, we haven't seen it and we think we ought to have. Under what, under what – where in your computer hard drive was it located?---It would be, it would be associated with the master key system for Northern Area Health.

What file was it sent under – set under?---Master key system.

Okay?---Abloy or - -

Could the witness just be shown Exhibit 28 and 9. Have you ever seen this document?---Yes, I have.

10 And when did you see this document?---We've also got this document on our system.

I see. And have you ever produced this document?---No.

THE COMMISSIONER: Which one?

MR STRICKLAND: This Exhibit 89. Do you say – have you ever produced this document to the Commission, Exhibit 89?---Only what you've got here.  
20

Do you say Kings have produced this document, Exhibit 89?---Not that I am aware, no.

Okay. Can I ask you, in relation to this document, that is the one that your Counsel has handed you, is there a date as to – is there any date as to when it came on to your system or when it was received by you?---No.

THE COMMISSIONER: It says it, it says it - - -?---I was going to say from a metadata expert or something like that but - - -  
30 It says it was saved in 2007.

MR STRICKLAND: Sorry Commissioner, did you say he said it or - - -

THE COMMISSIONER: Yes, Mr Roche said it.

MR STRICKLAND: He said it, I see.

THE COMMISSIONER: He says he looked in his computer - - -?---Yes.  
40 - - - and he saw that according to his computer that it was saved into the system in 2007.

MR STRICKLAND: Yes, thank you.

THE COMMISSIONER: Well Mr Maher, I'm not sure, I don't understand the relevance of this document. What are you saying about it?

MR MAHER: Well nothing more than the witness was asked whether he'd seen a draft manual and I understand his answer to be yes, that's the one. And I would tender it as such.

THE COMMISSIONER: Is there any explanation for not producing it earlier?

10 MR MAHER: I understand the Commission has had access to my clients computers, they're currently checking whether it is recorded and what they have.

THE COMMISSIONER: But he managed to get this himself.

MR MAHER: He did, Commissioner.

THE COMMISSIONER: So why didn't we get it earlier?

MR MAHER: I can't answer that.

20 THE COMMISSIONER: He was called upon to provide all relevant documents.

MR MAHER: I can only say that I've seen it fairly recently and, and it may be the Commission - - -

THE COMMISSIONER: When did you see it Mr Maher?

MR MAHER: - - - has had it in the computer, I don't know.

30 THE COMMISSIONER: Why didn't you hand it over to the Commission immediately?

MR MAHER: I wasn't aware Commissioner, that it was actually called by the section 22 notice and I - - -

THE COMMISSIONER: But it was relevant.

40 MR MAHER: Well it only became relevant, to my understanding, subsequent to the questions that were asked today by Counsel Assisting.

THE COMMISSIONER: Well you may well be right there. Yes. It will be received as an exhibit, Exhibit 255, an undated manual for Northern Sydney Health Security and Fleet Services Unit. Yes, that will be Exhibit 255.

**#EXHIBIT 255 – AN UNDATED MANUAL FOR NORTHERN SYDNEY HEALTH SECURITY AND FLEET SERVICES UNIT**

MR MAHER: Thank you, Commissioner. Yes, Mr Strickland.

MR STRICKLAND: Commissioner, that's the, that's the evidence that needs to be presented in this hearing.

10 THE COMMISSIONER: Yes, thank you. And I – as is set out in the directions there'll be no oral submissions, only written submissions. Counsel Assisting have had five segments of investigation to present and I propose to allow Counsel Assisting five weeks to prepare and to file written submissions and I have in mind that Counsel for the other parties or any other party who wishes to file written submissions should do so three weeks thereafter. Is that time satisfactory or does anyone have any objection to that period?

MR LLOYD: Commissioner, I think three weeks would be sufficient. I imagine if we're day or two late there wouldn't be much fuss about it.

20 THE COMMISSIONER: No. That's not – it's not an invitation.

MR LLOYD: No, I understand Commissioner. I may have to flog Mr Hickey a bit, that's all. He may enjoy that.

THE COMMISSIONER: Yes, you have the last laugh Mr Lloyd. The Commission will now adjourn.

MR STRICKLAND: Can I, sorry, can I – are we required to reply to - - -

30 THE COMMISSIONER: No.

MR STRICKLAND: No. Can I just, on behalf of all the counsel like to thank your associate and the transcript writer for staying late on so many occasions.

THE COMMISSIONER: Yes, that's endorsed.

**THE WITNESS EXCUSED [4.28pm]**

40 **AT 4.28pm THE MATTER WAS ADJOURNED ACCORDINGLY [4.28pm]**