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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

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AT 10.06AM

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

ASSISTANT COMMISSIONER: Thank you, please be seated. This is a public inquiry being conducted by the Independent Commission Against Corruption. The nature of the allegations being investigated and the general scope and purpose of the inquiry will be outlined in the opening address of Counsel Assisting, Mr Downing and I would now ask Mr Downing to deliver the opening address.

10 MR DOWNING: Thank you, Commissioner. Commissioner, this public inquiry is being conducted for the purpose of an investigation into certain allegations centring on the conduct of a former employee of the University of Technology, Sydney, Mr Nabil Faysal. More specifically it's alleged that during the period January 2006 to April 2012, first Mr Faysal solicited and accepted money and other benefits from UTS contractors in return for allocating UTS work to them or using his position to influence the allocation of UTS work to them. And secondly that Mr Faysal knowingly breached UTS policies and procedures for his own benefit and for the benefit of UTS contractors including via improperly disclosing confidential UTS information and failing to disclose any conflicts of interest to UTS arising from his relationship with UTS contractors and from engaging in
20 unauthorised secondary employment. And, Commissioner, as part of the examination of the above allegations there will be also be some focus on the conduct of the contractors to UTS who it's alleged offered and gave Mr Faysal money and other benefits.

Now, to properly understand the nature of the allegations which are being investigated it's useful to provide some background to Mr Faysal's employment at UTS and the specific allegations arising out of his conduct. Mr Faysal holds a Bachelor of Engineering and is a mechanical engineer by profession. He began work with UTS as a senior mechanical engineer on
30 1 November, 1999 and he continued to work in that capacity through to 29 March, 2007. Mr Faysal worked within the Facilities Management Unit or FMU which as the name suggests was an entity which was responsible for the maintenance of UTS facilities. At an earlier point in time it had been known as the Property Development Unit or the PDU.

In 2010 UTS launched a city campus master plan programme of works which I'll refer to as the Master Plan which was a 10 year \$1.1 billion project pursuant to which UTS would build new facilities and refurbish a number of existing facilities. At that time the FMU was replaced with two
40 units, being the Facilities Management Operations or FMO and the Programme Management Office or PMO. Under that new structure the main functions of the FMO were to look after the day to day operations at the University including matters such as cleaning, maintenance, refit, movement and some refurbishment. On the other hand, the main function of the PMO was to deliver the capital works within the Master Plan.

As already noted, Mr Faysal in the period 1 November, 1999 through to 29 March, 2007 worked as a senior mechanical engineer within the FMU.

In that capacity he did not have a specific financial delegation to approve expenditure on the part of the FMU. However, as a senior mechanical engineer working within the FMU his role included providing advice, it would seem in relation to mechanical and electrical engineering matters, including in respect of particular projects which were being considered by the FMU for the purpose of awarding outside contracts.

10 Mr Faysal's role in that period thus involved him providing advice and recommendations in respect of particular quotes or tenders submitted on behalf of companies and other entities seeking to do work with the University of Technology, Sydney.

From 30 March, 2007 until 9 August, 2009 which will be an important period of focus for the purpose of the inquiry, Mr Faysal was the Acting Manager Accommodation and Refurbishment, again within the FMU. In that position Mr Faysal was responsible for overseeing a number of project managers working within the FMU and he had a specific financial delegation to approve FMU expenditure up to the level of \$200,000. For projects involving larger expenditures the delegation was held by the
20 Director, Facilities Management Unit up to \$400,000, the Vice President Resources up to \$1 million and for larger projects the Vice Chancellor had the relevant delegation.

Also during the period 30 March, 2007 to 9 August, 2009 Mr Faysal chaired a Tender Assessment Committee within the FMU. That committee would consider tenders which had been submitted to the FMU in respect of which, in respect of particular projects.

30 Commissioner, it's also important to note that during the relevant period from March 2007 to August 2009 when Mr Faysal was the Acting Manager, Accommodation and Refurbishment UTS had in place a written procurement policy and directives. In accordance with it quotations were not required for very small jobs where the procurement involved an expenditure of less than \$2,000. For expenditures between \$2,000 and \$10,000 a minimum of one written quote was required, for expenditures between \$10,001 and \$50,000, a minimum of two written quotes were required and for expenditures between \$50,001 and \$100,000 a minimum of three written quotes were required. For expenditures above \$100,000 an open tender process was required and the procurement policy and directives
40 applied to any expenditures on the part of the FMU.

From 10 August, 2009 through to 23 March, 2010 Mr Faysal was employed at UTS as a Manager, Engineering Services. During that period he didn't have any specific financial delegation in respect of procurement, but his role involved him providing advice and recommendations in respect of the awarding of contracts by UTS, and I again I pause to note that he worked within the FMU.

From 24 March, 2010 through to 11 July, 2010 Mr Faysal was suspended on full pay during which time UTS undertook an investigation into certain aspects of his conduct. There was a report that was generated as the result of that investigation and there'll be some reference to that in the course of the evidence, Commissioner. Mr Faysal returned to work on 12 July, 2010 and he continued to work at UTS as a Manager, Engineering Services until his employment was terminated on 4 April, 2012. And in the more recent periods since the FMU was created – I'll withdraw that. The FMO was
10 created in the middle of 2010, Mr Faysal has work within the FMO, although the evidence will tend to suggest that he also provided some advice and recommendations in respect of projects within the PMO.

Throughout the period of Mr Faysal's employment at UTS, he's also been a director and shareholder in a company known as NA & CW Investments Pty Limited. The other director in that company was Mr Faysal's wife, Chafica Faysal. The evidence to be put before the Commission will be to the effect that Mr Faysal at no time disclosed his interest or involvement in that
20 company, NA & CW Investments Pty Limited to anyone at UTS.

As I've already indicated a significant focus of the public inquiry will be Mr Faysal's conduct between January, 2006 and April, 2012. Throughout that period UTS had in place a code of conduct with applied to all staff with a version coming in being in 2002 and a further version coming into, being adopted in 2011. Without going into unnecessary detail as to the content of that Code of Conduct at this point, Commissioner, pursuant to it University staff members were required to disclose potential conflicts of interest and amongst other things were explicitly required not to use or manipulate their
30 official positions in order to gain personal benefit. Beyond the code of conduct UTS adopted an outside work policy in 2002 in order to provide guidance to staff as to when and how outside work might be undertaken.

The outside work policy explicitly applied to all academic and support staff and thus applied to Mr Faysal. Amongst other things the outside work policy required that staff intending to do private consulting work apply to the appropriate supervisor and complete the relevant pro forma application form.

In December 2009 the UTS Vice Chancellor issued an outside work Vice
40 Chancellor's directive which amongst other things provided that staff undertaking outside work were required to demonstrate that they would manage on an ongoing basis any real or perceived conflicts of interest with the University.

Effective 1 May 2006 the UTS Vice Chancellor issued the UTS Gifts and Benefits Vice Chancellor's Operational Directives. Those operational directives set out the circumstances in which gifts or benefits were permitted to be accepted or required to be refused by UTS Staff. Under the

operational directives strict limitations were on the expectance of gifts and benefits valued in excess of \$250 were imposed.

Unsurprisingly there were a large number of individual contractors quoting and tendering for work for UTS including through the FMU and FMO in the period 2006 to 2012.

10 Relevant to this public inquiry contract work for UTS was done by a number of contractors to the value which will be set out in a table which I hope will appear on the screen.

20 Relevant for this inquiry the contractor Cady Propriety Limited trading as Michael Cady Air Conditioning Services which as the name would suggest provided Air Conditioning work billed a total for work in a period 2006 to 2012 of \$3,231, 304.60, KB Electrics New South Wales Propriety Limited which was a company providing electrical services or electricians work provided work to the value of \$2,038,813.81, Rega Controls Propriety Limited t/as Rega Controls a company which provided automated control systems to control systems such as air conditioning and fire services,
30 provided services to UTS to the total value of \$3,040,945.34, Targetti Australia Propriety Limited a company which provides lighting systems and lighting products, provided lighting systems and products to UTS in that period 2006 to 2012 to the total value of \$478,637.82, Webster Wagner Engineering a company providing engineering services, did engineering work during that period 2006 to 2012 to the value of \$564,842.31, W J Hood & Sons Builders which was a firm providing general maintenance and building works, did work during that period to the total value of \$9,504,027.90 and finally Wilkhahn Wilkening and Hahne Propriety Limited trading as Wilkhahn Asia Pacific which was a company providing
office furniture provided office furniture to UTS in that period 2006 to 2012 to the total value of \$1380,745.50.

From the figures I've just gone through, Commissioner, it can be seen that each of the companies or entities was a fairly significant supplier of goods or services to UTS during the period 2006 to 2012.

40 One of the most significant focuses of this public inquiry will be payments which were made by certain of those contract, contractors to UTS, sorry of those contractors to UTS to Mr Faysal's company NA & CW Investments Propriety Limited during the period 2006 to mid 2011. More specifically a table which again should turn up on the screen in a moment will demonstrate the particular payments which were made by certain of the companies.

KB Electrics New South Wales Propriety Limited in a period April 2006 to November 2007 made payments to Mr Faysal's company NA & CW Investments Propriety Limited totalling \$14,000, Cady Propriety Limited trading as Michael Cady Air Conditioning Services in the period April 2006

to October 2007 made payments to NA & CW Investments Propriety Limited totalling \$20,400, W J Hood & Sons Builders in the period April 2006 to June 2008, made payments to NA & CW Investments Propriety Limited totalling \$57,705, Rega Controls Propriety Limited trading as Rega Controls in the period December 2006 to October 2007 paid a total of \$43,620 to NA & CW Investments Propriety Limited and Webster Wagner Engineering in the period September 2008 to July 2011 made payments totalling \$149,230.75.

- 10 It can be seen from that table, Commissioner, that the total payments made to NA & CW Investments Propriety Limited in that period from April 2006 to July 2011 was \$284,955.75 and I pause to note that with the exception of the payments from Webster Wagner Engineering most of the those payments were made in a period from about early 2006 to mid 2008.

A number of issues are likely to arise out of these payments, Commissioner. First, whilst it's anticipated that Mr Faysal will give evidence to the effect that he disclosed the work that he was doing through NA & CW Investments Pty Limited to his direct supervisor at UTS, Mr Glen Rabbitt, 20 who's now the Director of the FMO, it's expected that this will be disputed by Mr Rabbitt. It is anticipated that Mr Faysal will say that he made the disclosure orally and it doesn't seem to be in dispute that he did not complete any outside work application form until 2010 and he submitted a further outside work application form in 2012.

Commissioner, even in respect of those outside work applications whilst Mr Faysal gave notice of his intention to perform some limited private engineering consulting work he didn't identify any specific companies or entities for whom he had worked in the past or intended to work in the 30 future. He also failed to complete the part of the application form which required him to refer to the Code of Conduct and inquired as to whether, as to where the consultancy had the potential to involve a conflict of interest situation. I anticipate that Mr Rabbitt will say that if at any time he'd been made aware of Mr Faysal's intention to perform outside work for UTS contractors he would have refused that request and referred the matter immediately to his supervisors at UTS.

Secondly, in respect of those payments to NA & CW Investments Pty Limited it's likely than an issue will arise as to the time that Mr Faysal was 40 spending doing his outside work with at least some of the contractors and whether that interfered in some way with his employment obligations with UTS. It's worth pausing at this point to note that he was a full-time employee with UTS at all relevant times.

Thirdly and perhaps most significantly it's anticipated that a significant issue will arise as to the actual services Mr Faysal was providing to the various contractors and the circumstances under which the payments were made to his company. I anticipate there will be evidence to suggest that at

least in some instances the payments were not made for legitimate engineering work performed by Mr Faysal. I also pause to note at this point that in respect of some of the payments made by Rega Controls Pty Limited invoices were issued by NA & CW Investments Pty Limited suggesting that what Mr Faysal had supplied was in fact corporate gift items such as hats, T-shirts, pants, jackets, mugs, pens not engineering services. I anticipate that Mr Faysal's evidence will be that he organised the supply of corporate gift items to Rega Controls Pty Limited after a request for such items by the principal of Rega Controls, Mr Ramsey Franjieh and that he then organised for those items to be sourced by his wife, that is Mr Faysal's wife, who had formerly run a giftware business.

In respect of both the engineering services and the corporate gift items said to have been provided by Mr Faysal through NA & CW Investments Pty Limited to Cady Pty Limited, KB Electrics (New South Wales) Pty Limited and Rega Controls Pty Limited and WJ Hood & Sons Builders, I expect there will be evidence presented to the Commission which calls into question what services and goods if any were actually provided and whether in fact the payments were made for legitimate purposes.

A further area of focus during the inquiry will be the supply of goods and services by UTS contractors to Mr Faysal during the period 2006 to 2012 when it must be remembered he was in a position to either provide advice or recommendations as to the awarding of contracts or to actually be involved in the approval process regarding contracts managed through the FMU and later the FMO.

From April 2006 through to July 2011 Targetti Australia Pty Limited and Rega Controls Pty Limited paid for a large number of international trips taken by Mr Faysal and on occasions his wife and children. On some occasions the travel involved business class travel overseas and on other occasions it was economy class travel. In total Mr Faysal and/or his family members undertook 10 separate overseas trips between April 2006 and July 2011 at the cost of either Targetti Australia Pty Limited or Rega Controls Pty Limited. The total cost of that travel seems to be approximately \$100,000 or as best we can figure on the materials \$101,053.99, none of which was paid for by Mr Faysal or family members.

In respect of one of those trips to Germany in October 2008 whilst the airfares seem to have been paid for by Targetti, some of the hotel and ground transport costs seem to have been met by Wilkhahn Wilkening & Hahne Pty Limited but in all other respects the travel costs that the Commission will be concerned with were picked up by Targetti Australia Pty Limited or Rega Controls Pty Limited. It appears that some of those trips involved Mr Faysal attending trade fairs or factories, particularly those trips organised and paid for by Targetti. In other instances the trips appear to be wholly for leisure and indeed, one trip in July 2009, I withdraw that, in July 2011 which was paid for by Regal Controls involved a trip by

Mr Faysal's daughter Amanda to Madrid in Spain for an intensive Spanish language course and I anticipate the evidence will be that not only was the course fee paid by Mr Franjeh of Rega Controls but also the airfares as well.

10 It's anticipated that there will again be an issue as to whether there was any disclosure by Mr Faysal to – of the fact of the above travel and more importantly the fact that it was being paid for by UTS contractors to anyone at UTS. I anticipate that Mr Faysal will give evidence to the effect that he verbally disclosed the travel and the fact that it had been paid for by UTS contractors to his direct supervisor, Mr Glen Rabbitt. I again expect that Mr Rabbitt will give evidence denying this and stating that if he had been informed of Mr Faysal having the intention to travel at the cost of UTS contractors he would have informed that it was not permissible.

20 In addition to the above travel there will also be some evidence put before the Commission as to Wilkhahn Wilkening & Hahne providing an expensive chair to Mr Faysal in approximately May 2009 and Mr Franjeh from Rega Controls providing an iPad to Mr Faysal in April 2012. And in respect of both of those items they were paid for by the relevant contractors not by Mr Faysal. It's to be remembered in respect of Wilkhahn Wilkening & Hahne that it was contracted to provide office furniture to UTS through the FMU at the relevant time. I anticipate there will be conflicting evidence as to how the chair came to be given to Mr Faysal, I anticipate that the evidence will demonstrate that Mr Faysal did not disclose the fact of him requesting or receiving the chair or the iPad without payment to anyone at UTS.

30 Commissioner, beyond the above significant issues, there will also likely be some evidence put before the Commission to suggest that at various times Mr Faysal has engaged in other inappropriate behaviour in the course of his employment at UTS such as suggesting to a contractor that it should split invoices which would have the effect of altering the procurement process in terms of the number of quotes required or whether a tender was required and bringing the particular expenditure within Mr Faysal's financial delegation. And secondly, in Mr Faysal engaging in communications with prospective tenderers in such a way as to disclose confidential information obtained from other prospective tenderers.

40 Finally, I expect the evidence before the Commission will indicate that during the periods when Mr Faysal, through NA & CW Investments Pty Limited was receiving payments from certain UTS contractors purportedly for his engineering consultancy work or corporate gift products and during the period when he was being provided with travel and other gifts and benefits by certain UTS contractors, he was actively involved in placing orders with those contractors and approving works to be undertaken by those contractors.

It's important to bear in mind that pursuant to its statutory functions, the Commission through holding public inquiries seeks to establish what factors may have allowed any corrupt conduct that's established to occur and also to establish what systemic changes might be made to prevent the conduct from reoccurring. In this matter an issue is likely to arise as to the adequacy of UTS' response to the investigation into Mr Faysal's conduct in 2010 and the disciplinary findings arising out of that investigation. In particular, it is anticipated that evidence will be given by Mr Rabbitt which will suggest that UTS could have put in place a more considered and more thorough management plan when Mr Faysal returned to work from suspension in order to permit his conduct to be better managed and to guard against any further misconduct or corrupt conduct.

It is anticipated that the evidence will demonstrate that Mr Rabbitt, Mr Faysal's direct supervisor, was given only limited information about the nature of the allegations against Mr Faysal that had been investigated by UTS and the findings that had been made in relation to him. It's also anticipated that Mr Rabbitt's evidence will tend to suggest that a greater level of support should have been provided to those responsible for managing Mr Faysal on his return to work in order to better monitor his ongoing conduct.

Finally, whilst it's likely the evidence will demonstrate that UTS has significantly improved its procurement processes and practices over recent years, the evidence in this public inquiry may also tend to suggest that UTS could improve them further by more thoroughly and effectively communicating with suppliers and contractors regarding UTS' procurement and probity requirements. It is anticipated that evidence from various UTS contractors in this case will suggest that they had little or no knowledge of UTS' specific procurement probity requirements at the time they were paying Mr Faysal for his outside work and also providing gifts and benefits to him.

Commissioner, I finally come to the key issues and matters for the Commission to determine in the course of this public inquiry. The key issues in this investigation in respect of which the Commission will need to make factual findings arise out of Mr Faysal's conduct in the course of his employment at UTS between 2006 and 2012, with particular emphasis on the outside work he was apparently performing between early 2006 and mid-2011 and the overseas travel that he and his family members undertook between April 2006 and July 2011. It is anticipated that the key factual issues in respect of which the Commission will need to make factual findings will be as follows. First, what disclosures Mr Faysal in fact made to Mr Rabbitt or any other senior staff members at UTS as to outside work he was intending to perform or was performing and overseas travel at the cost of various contractors he was intending to undertake or was undertaking. And that would also include travel involving his family members. Secondly, what outside work Mr Faysal in fact performed for

various UTS contractors. Thirdly, the nature of the payments made by various UTS contractors to NA & CW Investments Pty Limited on behalf of Mr Faysal and fourthly, whether the receipt of the payments from UTS contractors and the receipt of paid travel and other gifts and benefits from UTS contractors in fact affected or could have adversely affected Mr Faysal's exercise of his official functions at UTS with particular reference to providing advice and recommendations as to the awarding of contracts and making decisions as to the awarding of contracts.

- 10 Depending upon the factual findings the Commission ultimately makes, an issue is likely to arise as to whether any conduct is found which amounts to corrupt conduct having regard to section 7 to 9 of the Independent Commission Against Corruption Act, 1988 and in particular the statement as to the general nature of corrupt conduct in sections 8(1) and 8(2) and the further requirements of section 9 of the Act.

Finally, at the conclusion of the public inquiry the Commission will be required to prepare a report pursuant to section 74 of the Act, which will include statements as to any of its findings, opinions and recommendations.

20

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you Mr Downing. We'll now have a short adjournment after which I will take applications for leave to appear. Thank you.

SHORT ADJOURNMENT

[10.31am]

30

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes. At this stage I will take any applications for leave to appear.

MR STITZ: May it please, Commissioner, I seek leave to appear on behalf of Mr Faysal. My name is Stitz, S-t-i-t-z and I am instructed by Messrs Colin Daley Quinn in this matter, Commissioner.

ASSISTANT COMMISSIONER: Mr Stitz. Thank you, yes, you're given leave to appear, Mr Stitz.

40

MR STITZ: Thank you.

MR WALSH: May it please the Commission, my name is Walsh. I seek leave to appear on behalf of Michael Cady and Mr Keith Boobyer.

ASSISTANT COMMISSIONER: Yes, you are given leave to appear.

MR WALSH: Thank you.

MR DEUTSCH: Commissioner, it's Deutsch, D-e-u-t-s-c-h, solicitor, I seek leave to appear for Glen Rabbitt.

ASSISTANT COMMISSIONER: Yes, Mr Deutsch, you're given leave to appear.

MR BONNELL: Assistant Commissioner, Bonnell, solicitor, B-o-n-n-e-l-l, I seek leave to appear for UTS.

10

ASSISTANT COMMISSIONER: Yes, Mr Bonnell.

MR LEWIS: Commissioner, Lewis is my name. I seek your authorisation to represent James Leighton.

ASSISTANT COMMISSIONER: Yes, Mr Lewis, you're given leave to appear.

MR LEWIS: Thank you, Commissioner.

20

MR HODGES: Commissioner, Hodges is my name, H-o-d-g-e-s. I seek your leave to appear for the directors of Complete Technology Integrations Pty Limited.

ASSISTANT COMMISSIONER: Of Complete?

MR HODGES: Technology Integrations Pty Limited.

30 ASSISTANT COMMISSIONER: I don't really know of the interest of that company. Do you, sorry, do you they trade under another name?

MR HODGES: No, they don't, Commissioner. We have notification from the Commission that we're a party that may have an interest in the proceedings. At this point I've got no intention of raising any matters that may change (not transcribable)

ASSISTANT COMMISSIONER: Yes. Do you have any objection?

MR DOWNING: No, no, Commissioner.

40

ASSISTANT COMMISSIONER: All right. You've given leave to appear.

MR HODGES: Thank you.

MR MAHENDRA: May it please the Commission, I seek permission to appear for Mr Chelliah, my name is Mahendra, M-a-h-e-n-d-r-a.

ASSISTANT COMMISSIONER: Yes, Mr Mahendra, you're given leave to appear for Mr Challiah.

MR DOYLE: Commissioner, my name is D-o-y-l-e, I seek your leave to appear for Mr Ramsey Philipe Franjieh or for Rega Controls. I am instructed by Mr Chris Hammond of Hammond Lawyers.

ASSISTANT COMMISSIONER: Yes, thank you, you're given leave to appear for Mr Franjieh.

10

MR DOYLE: Thank you.

ASSISTANT COMMISSIONER: Yes. If there are no other applications, we'll proceed. Mr Downing.

MR DOWNING: Thank you, Commissioner. The first witness is Mr Cady.

ASSISTANT COMMISSIONER: Is Mr Cady here? Yes, Mr Cady. Just take a seat. Mr Cady, are you seeking a section 38 declaration. Who is for Mr Cady, sorry, Mr Walsh.

20

MR WALSH: Yes, he is.

ASSISTANT COMMISSIONER: Yes, thank you. Mr Cady, the effect of this declaration is that nothing you say here can be used against you in future proceedings and the only exception is if you breach the Act by providing false or misleading evidence. Do you understand that?

MR CADY: Yes.

30

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

40

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

ASSISTANT COMMISSIONER: Mr Cady, you're required to take an oath on the Bible or make an affirmation.

MR CADY: Yes.

ASSISTANT COMMISSIONER: Do you want to take an oath on the Bible?

10 MR CADY: Yes.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner.

Mr Cady, if you could just tell us your full name?---Michael James Cady.

10 And your date of birth?---29/1/56.

And your address?--- [EDITED].

And Mr Cady, you're an electrician by trade?---Air conditioning and electrician.

You train, I take it you did an apprenticeship some years ago as an electrician?---Yes.

20 And for many years now you've worked particularly in the area of air conditioning?---Yeah, I'm also, I went back and I'm also qualified in air conditioning, I did a course in air conditioning as well for three years, yeah.

Right. And you trade through a company Cady Pty Limited trading as Michael Cady Air Conditioning Services?---That's correct.

And have traded in that way for some years?---Yes.

30 And you've been doing work through that company at UTS going back for some years now?---Yes.

Certainly going back to 2005/2006?---Yeah, I think from about mid-nineties I've probably started to do a few jobs in there.

And is it the case that by 2005/2006 that UTS was a source of a significant amount of work and income to you?---It was probably 99 per cent of my work and income.

40 And has that continued from that time onwards?---It did for a few years but then UTS slowed down or dwindled down a bit so I've actually, in the last probably two years I've gone out and tried to acquire more work from different sources.

But up until about two years ago it was a very significant source of work? ---Yeah, 'cause I've also, not only do I do projects like I also do a lot of, I do a lot of maintenance and service work and repairs so - - -

And that was for UTS you're referring?---For UTS, yeah.

Can you tell me the - in respect of the work that you've done at UTS are you familiar with the entity known as the FMU?---Yes.

Or what's now known as the FMO?---Well, I've always sort of known it as FMU, yeah.

And was that the entity, the Facilities Management Unit, through which most of your work came?---Yes.

10

Could you explain to us in respect of the work you did for the University how did that work normally come about?---Originally it started because I was there doing minor installs, service and repairs and then they started, then I just moved on and started doing small installations as in they would do refurbishments and upgrades and I would tender on the work on the upgrades and if I got the job I got the, I did the work.

And can I ask you, was the way in which you got a particular job, was that through a tender process or a quote process or did it vary from job to job?

20

---It varied from job to job because I worked for a couple of different sections. The repair and maintenance section was basically just as per an order to go and they would have a breakdown so I would get a, an order, I'd go and repair it. If it was going to be over a certain amount I'd inform them and say look, I need to give you a price, I then would do the quote and went ahead with the quotation.

And with the repair and maintenance work was that generally smaller work that needed to be done on - - -?---Yeah. No, some turned out to be larger jobs 'cause they did have some very large plant equipment but if it, I forget what the amount was at different times and different sections but if it went over a certain amount I'd have to put a quotation in to repair the, the equipment.

30

Thinking not so much about the repair and maintenance work - - -?---Mmm.

- - - but about project based work if - - -?---Yeah.

- - - I could describe it as that, was that also work that you generally sought through providing - - -?---Yes.

40

- - - a quote or put in a tender?---Yeah, yes, yes.

And was your experience that with larger jobs that you needed to put in a tender for smaller jobs it was you put in a quote?---Mostly quotes.

And for, for most of the projects or jobs you were doing what sort of dollar value are we talking about, are we talking about hundreds of thousands of

dollars or?---No, probably the majority of mine would range around to 30, between 20, 30, 40, maybe up to \$80,000.

So you would put in a quote to UTS - - -?---Yes.

- - - and that was from what I've asked you, I withdraw that?---Yeah.

From what you've said was that generally through the FMU?---Yeah, just through the FMU, yeah.

10

And can I ask you then in relation to your dealings with the FMU and UTS when did you first have contact with Mr Faysal?---When he, not long after he first started because I was doing air conditioning work there obviously he's an air conditioning engineer so he made contact about, I think because what had happened was I'd been, because I had so many bits and projects prior to Mr Faysal starting I had what happened was on some jobs I had some retention which was still owed so why it was retention is the fact that if I do, say we'll keep round figures, a \$50,000 job they would retain sometimes two and a half percent of that for 12 months and then at the 12
20 months then you had to re-invoice to get your attention, the money that was held from the job, like your warranty period was over. So some of those jobs I done previously before Mr Faysal started he actually was, some of his - well his first contact was me was apparently you know landed on his desk that some of my retention monies were due and he was - I went out and looked at the jobs with him and he organised my, the return of my retention. Can I ask you I think you said in the course of that answer that you understood that he had an engineering role or an engineering input into the work he was doing at the FMU?---Not at that stage he didn't because I'd done the job for other people previous to him but you know I didn't know
30 the Nabil at that stage until he introduced himself, yeah.

Well once you'd met him was your understanding that he was someone that came from an engineering background?---Yes, 'cause he told me.

And was your understanding that in respect of particular projects that existed within the FMU that he provided some input and recommendations is to the particular work that was to be done at the University?---Yes.

40 So that he might for instance have on a particular job a role of providing advice as to the particular scope of work or the particular contract that might be appropriate to do the work?---Yes.

And was that the case in respect to the jobs that you were involved with at UTS?---I suppose it was, yeah. He would, yeah, like he was in charge of mechanical services so I mean he had the overall say of what decision and what went in and what didn't go in I suppose.

Can I ask you in the period that you dealt with Mr Faysal can you go back to when you think it was, you first had dealings with him roughly what time that was? You've told us I think that you, you began doing work at the University, you think in some time in the 1990s?---Well I was virtually full but when Mr Faysal started I was probably doing just about full-time at the University.

But when do you recall first dealing with Mr, with Mr Faysal?---Probably about early maybe 2002, 2003 I think something like that.

10

Do you recall at any time and I'm asking you to focus particularly in a period - - -?---Mmm.

- - - between about March 2007, August 2009 having any knowledge of him having a different position within the University?---No, not really I don't.

20

Throughout the period that you've dealt with it was your understanding that he was someone who had input into the awarding of contracts for contractors?---Well when I was, I think he was, he was, what I sort of noticed he was chief mechanical engineer and also too he did, he organised project managers on the job so I mean he sort of would, I suppose project managers come to him for advice and things as well and he, I, I think he actually overseeing the project managers as far as I was concerned. Yeah.

All right. So, so that he would oversee particular project managers who were looking after particular jobs?---Yeah, but I mean there was about 10 or 12 project managers in there at the time I think.

30

So I take it from that that you understood that he had a role placed on your observation and your dealings with him and project managers in making recommendations about the allocation of contract work and overseeing contract work?---I think he did, yes.

Now you've already agreed with a question I asked you earlier about the volume of work that you were getting from UTS?---Mmm.

I think you said up until about two years ago?---Yes.

40

And that it was a significant source of your income?---Yep.

And are you able to say as accurately as you can through the projects that you were involved with at UTS, that is where you'd won a contract to do particular air conditioning work or electrical work, how many of those involved Mr Faysal in some capacity?---Well it's hard to say what his involvement in some of the jobs, some of the jobs had no involvement even though they were mechanical jobs because they were put out by mechanical engineer, so the jobs would become or tender, well most of the jobs I tendered on documentation provided by an outside person. So I mean I just

tendered on those particular documents that were provided by, like scope of works.

But in terms of once a tender had gone in was it your experience that Mr Faysal was often involved in your projects, that is the particular air conditioning work and electrical work?---Yes, yeah. Yes, yep.

10 And it was your understanding based on your dealings with Mr Faysal and also the project managers working under him that he was in a position of influence in terms of the allocation of contract work within the FMU at the University of Technology?---Well I suppose he was because he was the one that was in charge of those projects managers, so I'd say, I'd say yes.

Now in a period between April 2006 and October 2007 do you recall making a series of payments to Mr Faysal's company - - -?---Yes.

- - - NA & CW Investments Pty Limited?---Yes.

20 If I could ask first of all that you have a look at a particular deposit record which will be found at page 781, oh I'm sorry, Commissioner at this point so that we're all working off the same documents, could I tender exhibit documents? There are two folders marked 3A and 3B.

ASSISTANT COMMISSIONER: All right. Well I'll, I'll make 3A Exhibit 1 and 3B Exhibit 2.

#EXHIBIT 1 - FOLDER 3A

30

#EXHIBIT 2 - FOLDER 3B

40 MR DOWNING: And I understand for the benefit of the other parties that there should have been an electronic copy of the exhibits that went through and it should have the same consistent page numbering from those I'm referring to. So what I would ask, and most of the documents I'll be referring to at this point will be in 3B, Commissioner, as a reference. If I could ask that Mr Cady have a look at document at page 781 and then 782 of 3B. The numbers are on the top right hand corner Mr Cady?---781, yep, yeah, there's 781.

Do you see that as a deposit record into an account for NA & CW Investments of 6 April, 2006?---Yep.

And it records a deposit in the form of a cheque from your company?---Yes.

In the amount of \$2,200?---Yes.

So that's one payment you made to - - -?---Yes.

- - - NA & CW Investments. If I could ask you then to have a look at page 783. Do you see that's also a deposit record and there's a record there of two cheques but relevantly to you is a cheque in the amount of \$4,000?
---Yes.

10 And that's a deposit made on 10 November, 2006?---Yep.

If I can then ask you to go to page 784?---Yeah.

Again a deposit record into the same account for NA & CW Investments?
---Yes.

And do you see this time there's two, two cheques but relevantly to you - - -?
?---Yeah, I see that.

20 - - - \$4,000 from Cady Pty Limited?---Yep.

Then if I could ask you to go to page 785. On that occasion there's actually a copy of the relevant cheque from Cady Pty Limited on NAB cheque - - -?
---Yes.

- - - twelve hundred dollars. And that shows a cheque written on 16 April, 2007 and deposited on it would seem 18 April, 2007, if you look on the extreme left hand side of the page. Do you see that?---Yes, yep, 785, page 785 is that what you're saying?

30 Yes?---Yep.

And then finally if you can go to page 786 and do you see there there's a record of a deposit into the same account for NA & CW Investments of \$9,000?---Yes.

With the deposit occurring on 17 October, 2007?---Yes.

40 Now in those pages that I've just taken you to there are five separate records of deposit by you or your company into NA & CW Investments account. Are you able to say whether there were any further payments that were made?---Not that I'm aware of, no.

So you believe that's the total of the payments?---That's the total, yes.

And can I ask you then to have a look at a number of documents starting at page 775. Do you see - have you got that page open?---Yes, I've got that one, yes.

Now do you see that that's an invoice from NA & CW Investments to your company of 6 November, 2006?---Yes.

Remembering for the moment that the first deposit that seems to have been made from you was back in April, 6 April, 2006 for \$2,200 are you able to say whether you've ever received or seen an invoice at that time?---I received the invoice. That's the copy of the invoice that I received.

10 Sorry, the invoice I've got you to looking at at the moment is for \$4,000 - - - ?---Yeah.

- - - and it's dated 6 November, '06?---Yeah.

If you recall the first deposit that I took you to was one made on 6 April, '06 for \$2,200, that's at page 781?---Yes.

20 Do you – accepting from me that there doesn't appear to be an invoice that I've been able to locate in respect of that payment, are you able to say whether you ever received an invoice from NA & CW Investments?---I don't think I did. I wasn't aware of that.

Okay. Going back - - -?---All this information I've given you here was what – all that I found that I had.

Okay. And you've undertaken a search of your records?---Yes, yeah.

And produced documents to the Commission?---Yeah, as best I could.

30 Going back then to page 775. Do you see that invoice in respect of the payment of \$4,000?---Mmm.

And it would seem to correspond with the payment that you made to Mr Faysal's company NA & CW Investments of \$4,000 which was deposited on 10 November?---Yep.

Now and do you see some writing on this invoice at page 775? It's got a cheque number and a date 9/11/06?---Yes.

40 Do you know whose writing that is?---That would have been mine.

Right. So do you recall when you received this invoice?---Well I probably would have received it about the same time as I paid the cheque?---All right.

Looking at it now you'll see that it refers to, it says re Bong Bong Street Mall, Bowral?---Yes.

Now at or around that time was your company providing any work or doing any work at a location in the Bong Bong Street Mall in Bowral?---Yes, it was.

And what was the nature of that work?---It was air conditioning work, commercial air conditioning work.

Installing it in commercial premises?---Yes, yeah. Design and, I was doing some, like some design and fit out work for them.

10

And you'll see that this document, this invoice refers to a scope of work being mechanical engineering, design and documentation for shops and fit outs as shown and discussed?---Mmm.

Did Mr Faysal or anyone else for that matter from NA & CW Investments ever do that work for you?---No.

20

Doing your best now, I think you said to me that you received the invoice not long before you made the payment which we know your cheque was drawn on 9 November, 2006?---Yes.

And it was deposited into Mr Faysal's account or NA & CW Investments account on 10 November, 2006. Can you tell me then what were the circumstances under which this invoice was given to you and you made the payment?---I was given an invoice, well originally it was, Mr Faysal required some, asked me for some money.

30

Well if I can just stop you there. Is this – did this request have anything to do with the work you were doing at Bowral?---No, it didn't.

So was he doing any work for you at all in relation to it?---No, he wasn't, no.

Well can you - thinking back and doing your best, try and recall when and where and in what circumstances the request for money came about?---Well I can't remember the exact, like I said I, I can't remember the exact, how it come about but I can remember on a couple of occasions Mr Faysal said look I'm short of cash I need some money and I, we do this up as a way of like sort of covering it up I suppose.

40

Did he say to you I'll give you an invoice?---Yes.

Did he say something to the effect that I'll give it to you so that it will cover the payment?---Yes.

And there was no I take it from your point of view you didn't understand there was any confusion on Mr Faysal's part about - - -?---No.

- - - that he hadn't done any work?---That's right.

Did he - are you able to say whether this request was something that was made whilst you were present at UTS doing work or was it in a course of a phone call?---No, it was at UTS, present, while I was present at UTS, yeah.

In your mind did the request, was the request in any way linked to the work you were doing at UTS?---No, not really, no.

10 Well did you have any understanding about Mr Faysal's role, I withdraw that. You've told us already that you understood that Mr Faysal's a person who had some influence in - - -?---Yes.

- - - the allocation of work. Well can I ask you then why would you make a payment to him just because he asked?---Well because basically I sort of thought I suppose at the time I was - I had no other employment, UTS was my own sole thing of employment. I basically had at my age no-one else like, I just don't, you don't go and get another job in the industry at my age and I was just, I just want to be able to keep working, I didn't want to cause
20 any waves and keep on working there.

Well what was your concern that if you'd said to Mr Faysal when he said I'm short of cash can you write me a cheque you said no?---Well I suppose my concerns at the time were I want to say, I just wanted to stay there basically.

Well what did you think might happen if you didn't make the payment?
---Well I probably wouldn't be able to keep tendering on jobs that come up.

30 Well you would be able to put tenders in wouldn't you?---I suppose I could have kept tendering, yeah, yeah.
But what was your concern that if you submitted a tender what might happen?---Well maybe I wouldn't have been asked to tender.

Did you understand that Mr Faysal had some role in working out who got an invitation to tender?---I think he did, yes.

And you say that there was a discussion with Mr Faysal where he asked for money?---Yes.
40

Was it the same time he gave you this invoice or was that at a later time?
---Look I think, I, I can't remember the exact timing of the - I think the invoice come later.

Mr Faysal you've told us had nothing to do with the work you were doing at Bowral?---No.

So he wouldn't have known about that work other than through asking you about it. That's correct isn't it?---That's right, yeah.

Do you recall whether he asked you whether you could give him the details of some of the jobs you were working on so that he could prepare an invoice?---No, I told him that.

10 But was it at his - - -?---I told him to, to give me an invoice with those details on it to cover the payment that I was giving him.

So this is in respect to the invoice of 6 November 2006. Can I ask you then to have a look at an invoice which appears at page 774. Do you see that invoice?---Yes.

And again there's handwriting on it with a cheque number and a date that it was paid. Is that your writing?---It is, yes.

20 On this occasion it's an invoice in respect of Sydney Uni Aeronautical Labs - - -?---Mmm.

- - - and mechanical engineering and design and documentation for the ventilation system of the above site as discussed. Do you see that?---Yes.

Now that's in the amount of \$1500?---Yeah.

You'll recall that I took you previously to a deposit record for the 23 February where there were two cheques one for \$2500 and one for \$1500? ---Yeah, I think they were for the same, two invoices for the same cheque.

30 Sorry. Two, one cheque but - - -?---Yeah. Two separate invoices.

Now can I ask you this, in respect of this invoice did you ever yourself or through your company do any work at the Sydney University Aeronautical Labs?---I did, yes.

And what was the nature of that work?---It was ventilation work.

40 Did Mr Faysal provide you with any mechanical engineering design and documentation in respect of that work?---No.

Can I ask you has he ever at any point provided you with any engineering services or assistance - - -?---No, no.

- - - in respect of any job you've done?---No.

Doing your best again and noting that the date of this is 23 February '07 are you able to say what it was that prompted you to make the payment? ---Probably he requested some, he wanted some money.

Well can you think of any instance where you made a payment to Mr Faysal other than when he said to you I'd like some money please?---No.

10 And again can you say, say to the, explain to the Commission why it was why you made at that time when it was requested of you?---Well it was a, it was a continuing thing for the two years I think it was four, four payments or something but they were all sort of on the same, they're the same agenda, I was just, I didn't want to rock the boat I just wanted to keep stay working at UTS so I paid the money.

Can, can you recall anything that Mr Faysal either said or did that made you in any way feel that there might be a consequence for you if you didn't make the payment?---No, I was never threatened in any way like that, no.

20 Did he ever say anything to you about for instance that there were many contractors out there and hint that perhaps he might not - - -?---Look he didn't have to I, I knew there's lots of contractors out there bashing on the door trying to get into UTS so as far as I was concerned I wanted to stay there and keep my name on the list.

So at the time you made this payment you made it on the same basis as before - - -?---Yes.

- - - that you were concerned that if you didn't make the payment it might affect your own going work - - -?---Yes.

- - - through UTS?---Yeah.

30 And particularly through the FMU?---Yes.

And particularly through projects where Mr Faysal had some role?---Well it was projects and it was all, it was all facets at the University so.

But you understood that Mr Faysal had some role in making recommendations or giving advice about particular jobs or decisions about how might be allocated?---Well that was his job, yes, that was his job.

40 All right. If I could then ask you to have a look at the invoice that appears at page 773. That's also dated 23 February 2007. Do you see that?---Yes.

In the sum of \$2500?---Yeah.

And on this occasion it refers to a job which isn't specific to a site but talks about the scope of work is providing OH & S information for new work method statement, risk assessment as directed. Did Mr Faysal ever do any work of that description for you?---No.

And please tell me if this is not right but was the, the payment again something that was requested by Mr Faysal?---Look I think at the time, yes.

And was it again a case where - - -?---It was a way of me being able to say well I've paid the money and sort of basically look like it was all legit.

And it was paid on the same basis that is a concern on your part that were you not to make the payment that it affect - - -?---Yes, yeah.

10 - - - your ongoing work - - -?---Yeah.

- - - at UTS? If I can then ask you to have a look at the invoice at page 772. It's an invoice in respect of shop 3 at 32 to 35 Wingecarribee Street. Bowral?---Yeah.

Was that a location that you were doing some work?---Yes.

Was that air conditioning installation again?---Air conditioning installation, yeah.

20

And you'll see that it refers to a scope of work of mechanical engineering design and document for the above site and provide council certification. Did Mr Faysal do any of that?---No.

And again is it a case where he requested a payment from you?---Yes.

And you made the base, you made the payment on the basis of concern that he didn't - that it might affect your work with UTS?---Yes.

30 And the invoice was that something that was discussed with him along the lines of it can be - - -?---Well that was - - -
- - - you can provide him with a invoice - - -?---Yeah.

- - - Mr Faysal and that'll cover the payment?---Yeah. That was my idea of how to sort of hide it in my system, my system really.

And then finally if you could go to the invoice at page 771?---Yes.

Now that's one for \$9000 - - -?---Mmm.

40

- - - in respect of work at the Village Centre Kellyville?---Yes.

Again was that a location you were doing some work at?---Yes, yeah.

Air Conditioning work?---Yes.

And you'll see it refers to scope of work and mechanical design, mechanical engineering design and documentation for four (not transcribable) as

requested including heat load calculation, fresh air equipment, a requirement of equipment schedules and selections. Did Mr Faysal do any of that work?---No.

And is it again a case where he requested a payment?---Yes.

Can I ask you did he specify the amounts on each occasion he wanted?---If I
- - -

10 'Cause that would vary from invoice to invoice from payment - - -?---They do and I think what happened was I sort of would, I think in this particular case. I know in some of the earlier one, in the middle because some of the jobs I done I was able to allocate some of the - it was sort of basically a figure that would fit that job. So for example the, how can I put it, the one here for the \$4000 for on page 775 well the scope of that job allowed for like about a \$4000 design documentation brief. So it sort of fit that.

20 But how did you know how much money would make Mr Faysal happy each time he asked you?---To be honest I don't remember how we got to the amounts.

Well, do you recall him, do you recall him asking for a figure?---No, I don't actually specifically, no, he didn't ask me for a figure. I would say to him maybe how much do you want, is this enough and I think he'd say yes.

Right. So he would make the request for money?---Yeah, yeah.

30 To the best of your recollection you would then offer him - - -?---Whatever I thought at the time.

- - - a certain amount?---Yes.

And he'd say whether it was enough?---Yes.

Is it the case that what then happened is you would try and think of a job where you could come up with a - - -?---Yeah.

- - - engineering scope of works - - -?---That's right.

40 - - - that would be consistent with the overall amount of money paid?
---That's right.

Now, can you think what it was though that made you go from in the earlier payments of it would seem according to your evidence you offering about 2,000 or 4,000 - - -?---Yeah.

- - - why in October 2007 it was a much bigger sum of \$9,000?---Because that was a really big job I did and I thought at the end, I thought that would

be the last one and no, no, it's not going to happen any more. That was the sort of point where well, this can't keep going on and I sort of made that amount, I thought maybe well, okay, that'll be enough and we can finish it there and not go on from it any more.

Did you have any discussion with Mr Faysal about the fact that you were upset or concerned about the payments?---Yeah, I think when I made that payment at the end, yeah.

10 You said something to him about what? This can't go on?---Yeah, yeah, we've got to, this is getting a bit out of hand, like we've got to stop.

So the figures reflected you're saying what you believe the size of other jobs you were doing at the time?---Yes.

Was it in any way reflective of the amount of work you were doing for instance with UTS at the time?---In what way? What do you mean?

20 Well, if you can accept from me and for the benefit of the parties there's a document which is a statement from Mr O'Regan which, I'll check the page numbering, yeah, it starts at page 606 but I'd ask that the parties go ahead to page 626 which is where the particular table appears, 626. So Mr Cady, what, this is a document from someone at UTS and it indicates the amount that your company billed UTS for work in each financial year?---Yes.

And for instance - you, you don't have a copy of the document, you won't need to flick through the documents to look for it?---Oh, okay, sorry.

30 But for instance in 2006 the amount that seems to have been billed was \$816,247.50?---Mmm.

In 2007 it went up to \$1,380,731.68 and in 2008 it was \$1,134,969 so during those years, 2006, 2007, 2008, the records from UTS indicate that your company was doing a significant volume of work and being, and being paid a significant amount for that work?---Yeah, I was doing a lot of work, I was doing lots of jobs.

40 Well, do you think that in some way the amount that you were paying to Mr Faysal in your mind had some connection to the amount of work that you were doing to UTS?---Well, it probably enabled me to keep tendering on the work that I was doing, I mean, projects at that time, UTS or FMU they had a major push, I mean they were like push, push, push jobs, jobs, jobs and jobs and there were just lots of jobs to do so - - -

So you were getting a large amount of bill?---And it wasn't just through Nabil Faysal, it was through Nabil's project manager, it was through, through Nabil's - Glen Rabbitt, push, push, push, you know, we need this

job tendered, we need this price, we need this done. I was just happy to be the person on the spot at the time.

But at the time Mr Faysal asked you for the money you told us it would appear that it started in about early 2006, April 2006 and went through to late 2007, that was a time when in your mind you were receiving a lot of work from UTS?---Yes.

10 And Mr Faysal was involved in the allocation of that work, he would have been known the volume of work?---He knew of that, yeah, he knew exactly what, how much work I was getting.

So the case is that each of these invoices that I've taken you to refers to work that wasn't done?---That's right.

By Mr Faysal that is?---Yeah, yeah.

20 They were made up to cover up payments that were being made?---Yes, yeah.

And they were payments you were making to Faysal because you understood that that would help keep you in favour for the work at UTS? --- (No Audible Reply)

Payments have each been made not to Mr Faysal personally but to his company - - -?---Yes.

- - - that is NA & CW Investments?---Yeah.

30 Do you recall whether that was at Mr Faysal's request?---Yeah, he requested that, yeah.

So he asked you to make your cheque out to that organisation?---Yes, from my company.

Had you ever heard of that before, that company?---No, I didn't know, I didn't know it existed.

40 Was there ever a discussion with Mr Faysal where he said anything to you or intimated to you that he would look after you in terms of the work allocation at UTS?---No, never.

So there was never an explicit discussion about it?---No, didn't, like it was, no, I just, I think I more or less, more had a, oh, an understanding of how the system works really. It's like when you're in the building industry it's, I just presumed (not transcribable) well, hopefully it just keeps on rocking along the way it's going so - - -

Well, when you say the way the system works are you suggesting that in other instances you've been asked to pay people money in the course of a work relationship you had?---Oh, no, not, not so much that, just in the way that, how can I put it? I understood that hopefully I didn't have to say anything, that was like, you know, we didn't have to talk about it, it was, you know, we both knew what was happening and, yeah.

So that you were happy with the relationship in the sense that you were getting a large amount of work from UTS?---Yes.

10

And you figured that by making the payments you would not rock the boat and that relationship could continue?---Yes.

Just in respect of that Sydney University Aeronautical Labs invoice referenced before, are you able to say was that work you did specifically you obtained through your own company directly with the University or was that something that you might have done on subcontract to another head contractor?---No, it was work I did directly myself at Sydney University.

20

Now, can I ask you since - I withdraw that. You became aware the Commission was conducting an investigation to Mr Faysal earlier this year? ---Yes.

And I think was that in the course of you being asked to produce some documents?---Yes, in April.

Now, are you able to say whether since that time you've had any contact with Mr Faysal?---I have, yes.

30

Was that contact initiated by you or initiated by him?---I think we met probably I think twice after that within, within a couple of weeks of those documents being subpoenaed.

Was that because you contacted him and said what's - - -?---I think I might have contacted him on the initial case, yeah, to say yes, like what's going on, what's, what's happening and probably within a week or so after that, again, met a second time.

40

And were those meetings - well, tell me where the meetings occurred?---I think one of the meetings occurred at Bunnings at Revesby and the second one I think was at McDonald's at St Peters.

And who suggested the locations for the meetings?---I think I might have suggested the McDonald's one because I was, I was going past, it's easy for me to go home that way and I think Nabil Faysal mentioned the one at Bunnings at Revesby.

I think you said that you believed that you had contacted Mr Faysal after you became aware of the investigation?---Yes.

What was the reason for wanting to contact him?---Well, I wanted to know what, what the depth of the, find out what was happening, what's the depth of the investigation. Like what, what, I didn't, 'cause I mean, I've never been, I didn't know what was happening so I was just trying to, trying to find out first, I wanted to, I had no idea which way to go.

10 Right. And roughly when do you believe those meetings occurred?---Well, I think I got the subpoenas for the documents on 3 April, it would have been within a couple of weeks I think of that date.

That's both meetings?---Yes.

Right. And can I ask you in the course of those meetings did Mr Faysal talk to you at all about what you should say or do in respect of any appearance you might make before the Commission?---No, not really, he was just sort of - we sort of, I asked him what, you know, what's going to happen, what
20 are you doing and oh, I think maybe the second meeting, yeah, it was decided that yeah, we needed to like stick to the plan of saying this is like, it was legitimate work, we did legitimate jobs and - - -

So was there some discussion about the invoices?---Yes, yeah.

And sticking to the story that these were legitimate invoices for legitimate work?---Yes, yeah.

All right. So Mr Faysal spoke to you about that?---Yeah, I think it was,
30 yeah.

Suggested to you that you should continue to say that this was a legitimate invoice for legitimate work?---Yeah.

And what was your response to that?---Well I agreed to it at the time but then when I went home and thought about it, I decided no I'm not going to.

What was your concern that caused you to change your mind?---Look
40 basically it's something I've done and I've regretted doing it since the day I did it and I just wanted it to end and I thought the only way it can end quickly and get it over and done with is to tell the truth.

Can I ask you then in the course of your dealings with Mr Faysal, not after you've learnt about the investigation but back when you were doing work at UTS and he was working at UTS - - -?---Yeah.

- - -did he ever discuss with you details about particular contracts that were coming up and quotes from other tenderers or parties putting in quotes?

---No, no. I would sometimes know what jobs were coming up, like I'd know for example, so they might say, oh we're going to change our computer room and that, that space there in the computer labs well then documents would come out and you'd tender on the job and – like I knew sometimes which jobs were coming up.

Well sorry is that – I take it that with a tender process or a quote process you would get notified that the job was up for people to put their quotes - - -?
---Yes, yeah, yeah.

10

- - - or put a tender in. Are you saying that on occasions Mr Faysal would tell you this is going to be coming up soon?---Yeah.

So he would give you advance notice of something that - - -?---Yeah, but you didn't know, yeah but that was only we're going to do this fit out in three months time. Like he had no idea what was going in there or - like I mean a fit out is a fit – it could have 50 computers or 10 computers or 5 labs, you wouldn't know. I just knew they were going to do something with that space maybe.

20

So you don't recall any specific discussions with him where he told you for instance this quote has been received from another company?---No.

Or that a particular builder has the overall contract and it'll be having to subcontract, things like that?---Oh yeah, yeah, I priced to builders on different jobs, yeah for sure.

30

But would he give you notice of particular, information about for instance a particular head contractor that was going to win a contract and that you would then need to subcontract from?---No.

Can I ask you in the course of your dealings with UTS did you ever receive any information about the policies or procedures that existed at UTS in relation to for instance conflict of interest or the way in which staff was supposed to manage conflict of interest situations?---No, never.

Did you ever receive any information about policies or procedures that existed at the University in relation to the way - - -?---Never.

40

- - - procurement of goods and services were supposed to happen?---Never, never.

So was your only information from UTS simply a notification that there was a job that was up for quote or tender?---Oh we understood some of the procurement policy because I mean I was there all the time, you're talking to people, you learn different things about different policies, but basically if they gave us a job to price I'd price the job and if I won the job I'd do the job.

Well for instance - - -?---I mean as a, look as a contractor if UTS wasn't following their procurement policy, if I priced a job and won the job, I do the job. I mean it wasn't up to me to police their procurement policy.

I understand that Mr Cady?---Yeah.

10 But just in terms of what you knew from your dealings with those at UTS, for instance did you have any idea about for instance when you put a quote in for a job, say for instance it was \$20,000 did you have any idea about how many quotes that were required by UTS to be obtained for that job? ---Well it changed. Originally, originally it was only, yeah, sometimes I wouldn't know that, yeah. I knew for example that if the job was over – maybe between 10 and 20 it only needed one quotation.

Right. And that – at above certain financial levels beyond that - - -?---Yeah, then it stepped up, yeah, yep.

20 - - - there was a need for a greater number of quotes?---That's right.

Or a tender?---A tender, yeah, yeah.

What about – did you have any information from your dealings with UTS about whether it would be acceptable or not acceptable for staff members to accept money, gifts, benefits from contracts?---Well we never got told but I sort of had a really basic understanding that wouldn't be the right thing to do, so I mean - - -

30 But you never got any specific information about what the policy was? ---Never.

What the financial value of gifts or benefits might be?---Never, never, no.

What about any information from UTS about whether it was permissible for staff members at the University to do outside work?---No, I didn't know about that, no, no.

40 Including outside work for people like you, contractors doing work for UTS?---Yeah. Well I sort of thought that you were allowed to do it as long as they, I had an understanding I suppose they could work outside as long as they divulged what they were doing to their employee.

As long as they disclosed it?---As long as they disclosed it, yeah.

But is that something you just assumed or something that you understood based - - -?---Well just something I assumed I think, yeah.

Thank you, Mr Cady. You'll just have to wait there might some other parties that want to ask you some questions.

ASSISTANT COMMISSIONER: Yes, does anyone want to examine this witness?

MR STITZ: I do, Commissioner.

ASSISTANT COMMISSIONER: Yes, Mr Stitz.

10

MR STITZ: Mr Cady, I represent Mr Faysal. Do you understand that?
---Yes.

Now was it the case that you knew it was okay for UTS employees to do work outside because UTS employees did do work outside?---Look I'm not aware of anyone that was doing work outside.

Apart from Mr Faysal?---Yeah.

20

Glen Rabbitt, who was he?---When I – well as far as I was concerned Glen Rabbitt was the head of what they called FMU.

He was the boss?---He was the boss.

And he was Mr Faysal's superior?---Yes.

And in the scheme of things was it your understanding that in terms of who got what jobs he was the final say?---He would have a big say in that, yes.

30

Well he had the final say wouldn't he?---Oh, I don't know.

But he certainly outranked Mr Faysal?---Yes.

Now as far as you were concerned tenders would come up?---Mmm.

You understood it was a competitive process?---Yes.

And being familiar, very familiar with UTS work you would put in what you regarded as competitive tenders?---That's right, I did.

40

You had a good feeling for the price of jobs?---Yeah.

And from your experience a good feeling of what you would expect UTS to be charged for jobs?---Yep.

And you tendered accordingly?---Yes.

And you won tenders?---Yes.

And you're not suggesting are you in any way, shape or form that you were given any preferential treatment are you?---I wasn't given any preferential treatment, all I was allowed to do was I probably had a chance, well because I was already there I was able to quote more jobs I suppose.

10 Yes. And you and other UTS employees would discuss the work that needed to occur inside the University?---Well a lot of the other UTS employees probably didn't know what was available but I used to discuss with a lot of the so called maintenance people what was happening and all that sort of stuff, they'd tell me what plans - - -

You were on the ground and you knew what was happening?---Well I was there 24/7 basically for three years, yeah.

Yes. Now just in relation to these invoices Mr Cady, you said that you would come up with a figure - - -?---Mmm.

20 - - - in relation to a project because that figure would fit in?---That's right.

Okay. Just turn to page 771, Mr Cady?---Yep.

Okay. Now do you see that that relates to the Village Centre at Kellyville? ---Yes.

And was it the case that in your mind you thought that you could fit in an allowance of \$9,000 for mechanical engineering design type work?---And I did, yes.

30 Because the Kellyville job called for \$9,000 worth of mechanical and design work didn't it?---No, I wouldn't say called for 9,000, I wouldn't specifically say yes, but I mean basically it'd be something that you probably could allocate to that job, yes - - -

Yes?--- - - - within that range of you know give or take.

Yes. And you say that's what dictated the amount - - -?---Yes.

40 - - - that you gave Mr Faysal?---Yep.

Rather than him asking you for any specific amount?---Yes.

And that's your writing there, where you say "Paid cheque"?---Yeah.

On the same day?---On the same day, yes.

And that later turned up in your tax returns as a tax deduction didn't it, or an expense?---An expense, yes.

So you were telling the Australian Taxation Office that Mr Faysal had done \$9,000 worth of work for you?---Yes.

For a project at Kellyville which existed?---Yes.

For which there was \$9,000 worth of mechanical engineering work available?---Well, no, it wasn't 9,000.

10 MR DOWNING: I object to that.

MR STITZ: I withdraw that, I withdraw that?---Yeah, that's - - -

If you can turn over to page 775 please, Mr Cady. This one is the Bong Bong Street Mall in Bowral?---Mmm.

And again you could fit in an amount of \$4,000 into the project couldn't you?---No, I couldn't fit in an amount of \$4,000 in that project. What I say was if I had to have needed to get some design and documentation done
20 \$4,000 would have been, seemed like a suitable figure at the time.

Yes. And that's your handwriting on there I think you said?---Yeah, it's all my handwriting, yeah.

And you've gone so far as to work out the GST?---Yeah.

Correct?---Yeah.

And I take it that turned up in your business activity statement?---Yes.
30

As well as your annual return?---Mmm.

Correct?---Yes.

Now, just going back to page 771, if you could please, Mr Cady?---Yeah, I'm on it, yeah.

You say that was the last payment?---Yeah.

40 You say by this stage I'd had enough?---Well, I sort of have to put a stop, we had to sort of stop at some point didn't we, I mean, it just couldn't keep going on.

I see?---Yeah.

The reason why you say you were making the payments was because you were fearful that the work might dry up?---Yeah.

And so you were hoping that by making these payments you'd keep this lucrative contract or series of contracts?---Well, I just wanted to be stay at UTS and keep doing my work, that was what I was employed as.

I see.

10 MR DOWNING: Commissioner, if we could bring up page, in O'Regan's statement, it should be 626 I think with the Cady figures on it, my friend's just asked. Oh, I'm sorry. I thank Mr Wong. I haven't yet tendered the statements folder, Commissioner.

ASSISTANT COMMISSIONER: Right.

MR DOWNING: That's why it's creating some difficulty. If I could tender that now, the statement folder, I understand that it's been provided to the parties last week, the relevant statements.

20 ASSISTANT COMMISSIONER: Yes. Well, the folder of statements will be Exhibit 3.

#EXHIBIT 3 - FOLDER OF STATEMENTS

MR STITZ: In fact, Commissioner, the folder that we were provided with doesn't seem to accord with the content and numbering that has been tendered but I'm sure during the course of the following days that can be sorted out.

30 ASSISTANT COMMISSIONER: Yes.

MR STITZ: So just looking at that document, Mr Cady, that would seem to suggest in total in the year 2007 you billed about 1.38 million?---Yeah, that's right.

And in October '07, this is when you had this, came to this conclusion that I wouldn't make these payments to keep the work keep coming?---Mmm.

40 But in 2008 you billed 1.134 million, is that right?---Well, it must be, that's what it says, yeah.

Well, these payments didn't seem to have much effect on your continuing to get work did it?---No, it doesn't look like it.

No, it doesn't look like it, does it. Now, when did you first start doing work for UTS?---As in the first job?

Yeah?---Late 19 probably maybe late nineties.

Was it when it was the University or was it before when it was the Institute?
---No, it was the University.

Just pardon me a moment, please, Commissioner. To save me from doing the calculations about how old were you at that stage?---When I first started there?

10 Well, what's that, I'd probably say 15 years ago so maybe 42, 43.

Okay. And was it always your company providing services as a contractor or were you actually employed?---No, it was my company providing services as a contractor.

Okay. And in the years that followed the UTS became your most important customer?---Yes.

20 I think you said up to about 99 per cent but on reflection it wasn't that high, was it?---Oh, maybe 95 per cent but it was like my, my - they were my sole, you know, I would have hated to lose UTS.

Yeah, but you were still doing work at Kellyville, you were doing work in -
- -?---Yeah.

- - - Bowral?---Yeah.

Shop 3 at 32-35 Wingecarribee Street, Bowral?---Yeah.

30 The aeronautical lab that you told us about?---Yeah, one job at Sydney Uni, yeah.

Yeah. So that's the sort of work that was supplementing your 95 per cent with UTS?---Yes.

Now, at some stage Mr Faysal joined UTS?---Yes.

Yes. And do you recall if that was about 1999?---Oh, I think it was about '99, 2000, something like that, yeah.

40 Okay. Now, I think you said that he seemed to be in charge of mechanical services, is that right?---Yes.

But below Mr Rabbitt?---Yes.

And you believed he was the chief mechanical engineer?---He was, yes.

And when it came to air conditioning in particular he certainly knew his stuff didn't he?---He did, he's a very good engineer.

Now, Mr Cady, if I understand this correctly you essentially say at some point you can't remember when and where, initially asked you for some money?---Yes.

He didn't nominate a figure?---No.

You had some ongoing outside work at the time and you thought well I'll lend him X amount because I can justify that?---I don't think - - -

10

ASSISTANT COMMISSIONER: I'm sorry, I don't think it's fair to categorise it as a loan. It was never suggested it was lent.

MR STITZ: I'm sorry, yeah. Yes, I used that word I wasn't intending to, Commissioner.

You gave him the money?---Yes.

And you did it by way of invoices - - -?---Mmm.

20

- - - and you did it referable to particular existing actual jobs?---I did.

Where in you could justify that amount of money?---I could have justified that amount of money if someone, if I had to probably get design on those jobs, yes, yeah.

But wasn't it the case that you had to get the design work and you chose Mr Faysal to do it?---Well I can't answer that.

30

You can't answer that?---If I had to get the design would I have chosen Mr Faysal to do it?

Yeah.

ASSISTANT COMMISSIONER: No, I think it was actually put to you that you did need the design work and that you had hired Mr Faysal to do it? ---No, I didn't need the design work.

40

MR STITZ: Notwithstanding that the jobs could have done with design work?

MR DOWNING: I object to that.

THE WITNESS: I think - - -

MR DOWNING: Commissioner, that's not the effect of the evidence.

ASSISTANT COMMISSIONER: No, no.

MR STITZ: I withdraw that question.

ASSISTANT COMMISSIONER: I think to be fair the effect of the evidence is you could justify saying that but you didn't actually need the word done - - -?---I could have justified it saying didn't know, no.

MR STITZ: That's not true is it, sir?---What's that?

10 That he didn't do the work?---He didn't do the work.

He did the work and he did it on your instructions?---Well if he did I don't remember.

And that's why it was done by way of invoices because it was his company working for your company wasn't it?---Not that I'm aware of, no.

20 And that's why you filled out your tax returns and your business activity statements accordingly didn't you?---No, 'cause he wasn't doing the work, I never, I never said that.

Nothing further, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Stitz.

Yes. Does anyone else wish to cross-examine this witness? If not, thank you, for your attendance.

30 MR DOWNING: Sorry, Commissioner, can I just ask a couple of matters just in re-examination, just only a couple of short matters.

MR STITZ: Sorry. There was one point that I didn't put

MR DOWNING: I should have kept quiet. Sorry.

MR STITZ: When you met with Mr Faysal at McDonald's and at Bunnings
- - -?
---Mmm.

40 - - - he was urging you to say that the invoices were legitimate wasn't he?
---Yeah, we sort of had discussed that, yes.

Because they were weren't they?---Well they can't be if the work never happened.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you.

MR DOWNING: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes. Mr Downing.

MR DOWNING: Mr Cady, you were asked some questions before by Mr Stitz just about the way in which the invoices were drawn up and you said to reflect what - you thought you could - - -?---Yes.

- - - fit within - - -?---Yeah.

10 - - - that particular job?---Yeah.

But it's the case isn't it that on each of those jobs that I took you to the Bowral jobs, the Sydney University Aeronautical jobs that in fact no-one provided the type of mechanical services - - -?---No, no.

Sorry, the type of engineering services - - -?---Yeah.

- - - that's described?---There was a way I can hide the things in my company so no-one else would know basically other than me, well, well - - -
20

But it's not the case that someone else was doing the engineering work that you were paying - - -?---No.

No-one did it?---No-one did it.

It was a fiction?---It was a fiction.

And you're not in any way confused about whether Mr Faysal did the work are you?---No, not at all.
30

And Mr Stitz just asked you a couple of questions before about the amount of work you were getting and - - -?---Mmm.

- - - and he took you to the figures. You accept from me don't you the last payment that's recorded is the \$9000 paid in October 2007?---Yes.

That's in the 2007, 2008 financial year?---Ah hmm.

The figures from UTS suggest that in the next financial year 2008, 2009 your payments from UTS dropped from about 1.34 million to \$401,000?
40 ---Yeah.

Does that roughly accord with your recollection?---Yeah. Because what happened was the, the University through Glen Rabbitt and I think I don't know who made the decision but I know it come from Glen Rabbitt's section FMU that a lot of the jobs we used to go - the builder would tender on the whole scope of works and so the builder could get the documentation package and we would then, I would then tender on mechanical services to

the builder and the builder would take the, carry the whole job then UTS put in a policy they thought they could, they didn't want the builder obviously when the builder, that he could mark up on job site they were trying to get the job pushed through quicker and cheaper so they decided that they would manage the jobs themselves and that's when they went - that's why the three years was (not transcribable) good but after that when it went back again, down again is when they went back to builders. So that was probably like my minor works as in service and repairs and maintenance and re-fits.

10 Thank you?---Mmm.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes. Well that concludes your examination and you're now excused - - -?---Thank you very much.

- - - Mr Cady. We'll have a 15 minute adjournment at this time. Thank you.

20

THE WITNESS EXCUSED [11.45am]

SHORT ADJOURNMENT [11.45am]

ASSISTANT COMMISSIONER: Yes, yes Mr Downing.

30 MR DOWNING: Commissioner, before the next witness is called could I just for abundant caution could I seek that there be a non-publication order in respect of any documents contained within exhibits 1 and 2, they are the two exhibit folders that reveal individual phone numbers, email addresses or physical addresses. I think in most instances they should be disguised, but just for abundant caution could I seek that order?

ASSISTANT COMMISSIONER: Yes. Well I make that non-publication order in respect of the matters listed by Mr Downing.

40 **THERE IS A NON-PUBLICATION ORDER IN RESPECT OF MATTERS LISTED BY MR DOWNING**

MR DOWNING: Thank you. And the next witness will be Mr Boobyer.

ASSISTANT COMMISSIONER: Mr Boobyer, just over and take a seat. Mr Walsh, is Mr Boobyer seeking a section 38 declaration?

MR WALSH: Yes, he is.

ASSISTANT COMMISSIONER: Thank you. Mr Boobyer, I'm going to make a declaration the effect of which is that nothing you say here can be used against you in future proceedings. The only exception being if it is found you've breached the Act by providing false or misleading evidence. Do you understand that?

MR BOOBYER: Yes.

10

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

20

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

30

ASSISTANT COMMISSIONER: Mr Boobyer, you're required to take an oath on the Bible or make an affirmation to tell the truth.

MR BOOBYER: Affirmation, thank you.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you. Mr Boobyer, just so I make sure I pronounce your name correctly is it Boobyer or Boobyer?---Boobyer.

10 Boobyer. Thank you. If you could just tell the Commission your full name?---Keith Geoffrey Boobyer.

And your date of birth?---1/8/53.

And your address?--- [EDITED].

And Mr Boobyer, you're an electrician by trade?---I am, yes.

20 And you trade through a company known as KB Electrics (NSW) Pty Limited?---Yes.

And for how long have you traded through that entity?---I think it was sort of probably late 80s early 90s I started that company I think.

Okay. And you've done electrical work at the University of Technology, Sydney for some years?---About 18 I think. I think '94-ish I think.

And is it correct that by about 2005/2006 UTS was a source of a considerable amount of work for you?---Absolutely, yes.

30 And a considerable part of your income?---Absolutely.

And can I ask you in respect of work that you have done through UTS is it a case of you tendering for work or quoting for work? How do you become aware of work and how do you apply to do it?---Okay. Mainly quotes, either at the time to UTS or to builders and I also do a considerable amount of maintenance work which just comes through as an order on an hourly rate.

40 So in the most part you provide quotes?---Yes quotes for, for that period 2006. Probably now it's probably just more maintenance.

Right. So focusing on the period 2006 through till about 2011 - - -?---Yeah.

- - - was it the case that during that time you quoted for a number of jobs? ---Yes.

And was it the case that you were familiar within the University an organisation known as the FMU?---Yes.

Now the FMO?---Yes.

And that's the Facilities Management Unit as it used to be called?---Yes.

And was that to your understanding a part of the University that looked after a lot of individual projects within the University?---Yes.

10 For things like repair, refurbishment, contract work of that nature?---Yes, yes, and also maintenance under their building services wing.

And were you familiar with particular project managers that worked within the FMU who would be responsible for individual projects?---Yes.

So that when you would submit a quote - - -?---Yes.

- - - for a particular project you would understand that there would be a project manager appointed to that?---Yes.

20 And was it the case that once you found out whether you were successful or not with your quote you would then deal often with that particular project manager?---Yes, with that – for the first say 2006 to 2009 when we worked directly for UTS, after that it changed and it went to builders and then I dealt with the builder and the builder dealt with project managers. But that period, yes.

So up until about 2009?---Yes. And they changed their policy, yes.

30 But up to that point you had quite a lot of direct dealings with the project managers?---Yes, yes. Yes.

And can I ask you when you first had any dealings with Mr Faysal during the time that you were doing work at UTS?---I think it was about 2004, I think. That's what I recall.

And what was your understanding of his role or position?---At the time mechanical sort of, that's all I knew him as part of mechanical engineering.

40 And was he someone that had a role in respect of individual projects with which you were involved?---Yes.

Well, did you understand that he would provide mechanical or engineering advice or input into particular projects?---Yes, he would do that and he's a good electrical engineer as well actually so he would give me electrical advice as well, you know, to help me out.

So was your understanding that his role involved first of all before a job was actually allocated to a contractor having some input into looking at job

methods or job descriptions and giving advice about the particular job and who should perhaps be allocated the job?---I guess so, yes. I mean, I'm not 100 per cent sure what goes on out there I just, you know, that's just my understanding that obviously he must know what's coming out.

Well, did you deal with him in respect of particular projects on which you were - - -?---Some, yes and others project managers.

10 And was it your understanding that he ever worked as a project manager or did he have a different position?---He was very hands on. It's too far back, I think it was mainly project managers but there may have been a few projects where he may have been sort of overall in charge.

Was it your understanding that his position was senior that of the project managers?---Oh, yes, definitely, yes.

So that you understood he had an overseeing role in - - -?---Well, that's what I thought, I don't know whether that's true in structure but, yes.

20 And was that based on your dealings with him and your perception of what he actually did at the University?---Yes, and my perception, yes.

From what, what you observed to him saying and doing?---Yes, that I thought that he was, you know, higher up the family tree.

Assuming, accepting from me that Mr Faysal began work in 1999 at the University and I think you said that the earliest that you recall having any dealings with - - -?---That's sort of what I recall but I mean I - - -

30 Sorry, remind me about when it was you thought you first - - -?---I thought 2004, that's probably the earliest I can see anything in my records of, of invoicing that might mention him at all. So I mean it may be 2003 I've met him or seen him around but I didn't really have an awful lot to do with the mechanical side of things, I was just the electrician so I guess our paths wouldn't have crossed straightaway maybe.

40 Did you ever understand that his role or position at the University had changed in the period that you were doing work at UTS?---I knew that he was Acting Director when there was a shortfall in staff and I, I heard that he'd been made senior mechanical engineer last year or whatever but only hearsay, nothing official.

Just dealing with the Acting Director position that I think you referred to?---Yeah.

In the period, does this accord with your recollection that between about March 2007 and August 2009 he was in an acting, an acting role?---Yes, that sounds about right, yes.

And again, if you don't remember or you're not sure just say so?---Yeah, no, that's fine.

Would the position Acting Manager of Accommodation and Refurbishment within the FMU sound correct?---Yeah, yes.

10 Did your, did your understanding as to his particular role, particularly in relation to the allocation of work, did you understand that his role changed at all in that period?---Not really, no, I, I didn't really know what they do up there, I just knew that he was now sort of overseeing project managers probably more so so that's all I really know.

And did you understand that in that role he had some input into the decision-making process regarding the allocation of contract work?---I'm guessing he did, I didn't know like, you know, one on one that he did but I'm just sort of imagining that he did.

20 What, based on your dealings with him?---Dealings with him and, you know, hearsay.

When you say hearsay, what, dealings with other people at the University? ---Yeah, just people I have coffee with saying, you know, he's now in charge of projects or whatever, you know, when he was made up to that directorship or whatever.

30 And was it your understanding that he was in a position of influence in relation to decisions about allocation of work?---Certain work I suppose, maybe air conditioning more than anything else I would think. I don't know about other trades, I really don't know.

But dealing with your particular area of work?---Well, I don't know. I mean I, I didn't have daily contact with him, I was only a contractor.

So thinking just about the specific jobs that you did for UTS, again, focussing on the period from about say, 2006 to 2009?---Yep.

40 You did sometimes have specific dealings with Mr Faysal?---Oh, yes, yes, definitely, site meetings, things like that probably, you know, called up to his office to go through drawings maybe when we'd change things, especially during that time in my mind UTS were the project, were the builder, right, because I mean I couldn't go to a builder, I could only go to UTS because that's who was employing me so I would have had, if I didn't understand something on the plans or I thought something was wrong or missing, I would probably go and see Nabil.

And was he a person who you would quite often see on site when you were doing work?---Oh god, yes, yeah, very hands on.

So did you understand from those dealings with him that his view as to the work you were doing and the quality of the work would be something that would be important at the University?---Oh, god yes, yeah, especially 2006 to 2009.

10 Is that - why do you say specifically during then?---Oh, because that's when the University took off. I mean it was crap before that and then we made it good, right, I mean, we had good lighting, good design, good fit outs, it really put the place on the map I thought. After all the years, I've been there 18 years, I can sort of judge it, sort of, you know, when it came alive and 2006 to 2009 it really looked slick.

So there was a lot of work going on?---Yes, a lot of work.

20 A lot of new building refurbishment going on?---A lot of refurbishment and in, and probably in focal places like, you know, public spaces where people see it, not necessarily just a computer lab, you know, there was a lot of public space work done in that period which enhanced the University.

And you were dealing with Mr Faysal quite regularly in relation to that work?---Yeah, yes.

And is it fair to say that for your business that was an important source of your work?---The dealing with the Nabil?

Well, no, the work you were doing for the UTS?---Just, for just that period?

30 Yes?---Yeah. That 2006, 2009 definitely 80 per cent probably of my income easy, probably a bit more. I was really - a lot of work there in that period.

Now, it's correct isn't it in that in the period April 2006 to November 2007 you made a series of payments to Mr Faysal's company NA & CW Investments Pty Limited?---Correct.

Can I ask you first of all at what point did you become aware that this company existed?---When I was asked for a cheque.

40 Now, if I could ask you to have a look at page 825 of Exhibit 2, the number on the top right corner if that assists, Mr Boobyer?---Okay, thanks. Yeah.

Do you see that's a deposit record?---Yeah.

And it refers to two particular payments - - -?---Yeah.

- - - but there's one, it's dated 19 April, 2006?---Yes.

And it shows one cheque that was deposited that day into an account with St George for NA & CW Investments was from KB Electrics?---Yes.

Which is your company?---It is.

And do you recall providing that cheque?---I don't recall but I did obviously, I mean, it's not something that's sort of etched in my memory.

10 If I could then ask you to look at page 826, that's another deposit record?
---Yeah.

21 June, 2006 into the same account for NA & CW Investments?---Yes.

This time a cheque from KB Electrics for \$2,000?---Yes.

And if I could then ask you to go to page 827?---Yes.

That's another deposit record?---Yes.

20 This time referring to two payments but relevant to you there's a cheque from KB Electrics again for \$2,000?---Correct.

And this time a deposit made on 10 November, 2006?---Correct.

And if you could then go to page 828?---Yes.

It's a deposit record for the same account, for NA & CW Investments it would seem, dated 13 April, 2007?---Yes.

30 Relevant to you there is a record there of a cheque from KB Electrics for \$4,000?---Yes.

And then if I could ask you to go to the following page, 829?---Yes.

It's a deposit record into the St George account for NA & CW Investments showing a deposit of a cheque from KB Electrics for \$4,000?---Yes.

On 15 November, 2007?---Correct.

40 Now, the pages I've taken you to show five separate payments by your company to NA & CW Investments?---That's right.

Which is Mr Faysal's company?---Yes.

Do you recall whether there were any other payments that you or your company have made to Mr Faysal?---I don't even remember some of those so no, not to my, not, not that I recall.

Do you recall whether you were ever given an invoice or any document from Mr Faysal in respect of these payments?---No, I didn't receive anything.

Can I ask you then, starting, going through them in order if you're able to, and please do your best to recall?---Yeah.

10 If you don't remember, say so. What were the circumstances in which you made the payments? How did they come about?---I don't recall each one of them but I mean it would just be that a cheque was requested, so - - -

By Mr Faysal?---Yes.

Do you recall him asking you to make a payment?---Yes, just paid him a cheque.

20 In the course of your working relationship with Mr Faysal at UTS, it had always been the case that you'd been doing work and you'd been paid by UTS. Did you regard a request from Mr Faysal for a payment from you as unusual?---I suppose I should have done but no, I didn't think anything too much of it to be absolutely honest.

Did he say anything about why you should pay him?---No.

30 Well, can I ask what in your head, what was your thinking at the time as to the nature of the request?---Okay, I just thought of it probably like you would as an insurance that I'm actually staying on the list because by this time I'd given up a lot of my work elsewhere to be, sort of, to do UTS work, and I wanted to stay on the quoting list. And I just took it as a gamble or an insurance policy that I would stay there.

Did you understand that Mr Faysal had some influence in terms of who might be on the list of contractors?---Oh, I'm sure probably 206, 209 when I'm working direct for UTS, yes. There's probably, I could've been left off the list after 209, no, because I'm then working for builders, so - - -

Just dealing with the period when the payments were made?---Okay, sure. Yeah, sure.

40 Which was 2006, 2007, you understood at that point that Mr Faysal was in a position of influence in terms of who would be on the list to do contract work?---On the list probably so, yes.

And I think you've agreed with me that you understood that he had some role in terms of decisions about allocation of work?---Yes, yes, I'm sure, I think there was some sort of plan as to when jobs came out but I mean, yes, I don't really know what went on up there but I'm guessing so.

Well thinking back then to the first approach, it must've come as a bit of a surprise then when he asked you for money?---No, not really, I mean it just didn't. I've been around a long time, it didn't surprise me at all.

When you say you've been around a long time, are you suggesting that requests of this nature, that is, a request of you as a contractor to pay money to someone in an organisation for whom you're doing work is something that has occurred in the past?---Ah hmm. Oh, God yes, all the way through since I started my apprenticeship.

10

And are you talking about private companies, or?---Private companies.

Public institutions?---Public institutions. Not necessarily, not necessarily money but work done on people's premises, things like that over the years.

Are you referring to being asked to do work for someone at their home for instance?---At their homes, yes.

20

Which isn't related to the work you're doing for that person's company or institution?---No, absolutely, that's right.

Well again thinking back as best you can to the discussions of Mr Faysal, the first payment that we have a record of is 19 April 2006 in the amount of \$2000. Are you able to say whether he suggested an amount to you, did he nominate \$2000?---He would have nominated, I would have no idea how much so, yes, and all the amounts were nominated.

30

At that point at the time of the request had Mr Faysal ever provided you with any engineering work or services?---No.

At any point from that point in time when the first request for payment was made through to now, has Mr Faysal ever provided you with any engineering work or services?---No.

Has he ever done any design or engineering consulting in relation to jobs you've been working on?---No.

40

Do you recall at or around the time of that first payment whether there was any discussion about how the payment would be described or how you would account for it?---No. No mention.

All right. Well you've then made a series of payments starting in April 2006 going to November 2007?---Yeah.

Can I ask, doing your best, are you able to recall, was there a specific request each time you made the payment or was it something you volunteered?---No, I think it was just, just brought up, you know? He may

have bumped into me and said I need a cheque for this, and I'd just pay a cheque to that.

So there wasn't an instance where you actually volunteered to make a payment to him?---No.

It was always an approach from Mr Faysal? Were you at all concerned over that time that the payment had started at 2000 and then increased to \$4000?--No, probably because I'd probably forgotten about the \$2000 one to be
10 absolutely honest. I mean it was a very, very, very busy time doing 18 hours a day, seven days a week, and, you know.

Was it a time also that you were doing a significant amount of work for Sydney University, I withdraw that, for UTS?---Yes, 206 to 209, definitely.

And was your thinking at the time that these payments were relatively speaking a small amount if it meant that you continued to be invited to tender?---Yes, yes.

20 And to continue to get work?---Yes.

Did Mr Faysal ever say or say anything to you specifically about, I withdraw that. Did you ever raise with Mr Faysal a concern or a desire on your part that you shouldn't be paying this money?---No, no, no, I just let it, let it go.

Did Mr Faysal ever say anything to you about what might happen if you didn't make the payment?---No, I just assumed in my own way that, you know, I may be left off the list, but he never mentioned anything, I just sort
30 of assumed it myself.

But it's the case, isn't it, that at no point were you getting anything concrete in return for the monies you were paying?---No. No, just to stay on the list, so that I could tender.

So you weren't getting any work, any services?---No.

Anything from Mr Faysal at all?---Never anything.

40 Did Mr Faysal nominate that the money should be paid to NA & CW Investments?---Yes.

Did he tell you that that was an entity that he - - - ? - - - No, I had absolutely no idea. I mean I was guessing it had something to do with him 'cause it started with N, so, I'm just thinking, but I mean I had, he never mentioned to me what it was and I never asked.

So was it simply a case of him saying I want you to give me a cheque for \$2000 and it should be made out to that company?---Yes, yes.

Or, \$4000 made out to that company?---Yes, absolutely.

Did Mr Faysal ever say anything to suggest that either at the time of the payments or at other times when you were doing work at UTS that in some way he could look after you?---No, not at all.

10 Can I ask you at any point did you ever do a job at Sydney University, have you done work at Sydney University this year?---Yes, I have, I've done a lot of work at Sydney University.

Has Mr Faysal ever provided you with any engineering advice or consulting or services in relation to any job you've done at Sydney University?---No.

Can I ask you then, since, I withdraw that. Earlier this year I think you received a document from the Commission asking that you produce certain documents and I take it you went and searched for your, through your records?---Absolutely, yes.
20

And you satisfied yourself that you couldn't find any invoices from NA & CW Investments?---No.

At any point since you learnt of the investigation and you were asked to produce the documents by the commission, have you had any contact with Mr Faysal?---Yes, once.

And how did that come about? Was it you who contacted him or he contacted you?---No, I think others arranged a meeting and I just joined along.
30

Well who was present at the meeting?---Obviously myself, Nabil, Michael Cady.

And where did that occur?---St Peters McDonald's.

And do you recall at that meeting that you attended at McDonald's, was there a discussion there about the nature of ICAC investigation or the nature of the evidence you might give?---No, no, it was more, I wanted to know what was happening because at that stage I didn't know that, you know, I hadn't really thought why I was on the list and I just went along just to find out more what was going on, because at that stage I'd, I'd found out that he'd actually been dismissed from UTS. So, I decided I guess we'd, and I knew that Mick was meeting him so I, and I came along with him, that's all.
40

Was there any discussion at that meeting about the payments that you'd been making, that you made in the past?---No, there wasn't, no.

No mention about it?---No mention.

The fact that you'd made the payments and what they might be described as?---No mention at all, absolutely none.

Well what did Mr Faysal say to you during that meeting in McDonald's?
---Well he was more or less talking just generally about you know that he'd
10 been dismissed and that it was unfair and you know, just general chit chat
about stuff. It wasn't really, it was really a nothing meeting in my book. I
mean there was no sort of, you know, nothing sort of clandestine or
anything, just a chat.

So he didn't mention anything to do with the payments and the nature of the
payments at all?---No, not to me, no.

ASSISTANT COMMISSIONER: Did you know at that stage that it was the
payments that were at least part of the problem?---Well I had to go back
20 through, when I was going through my records I suddenly realised 'cause I
was trying to work out why I was on the list and why I was the only
electrician on the list and it suddenly dawned on me that it must be that.

So you knew that prior to the meeting?---I sort of, yes, I sort of worked it
out in my head, yes, that that's what it was because they'd asked for all the
documents so.

Well I'm just wondering if you - - -?---Mmm.

- - - wanted to know what was happening and that's why you went to the
30 meeting why you would not have - - -?---Yes, I know.

- - - at least raised the issue of the payments - - -?---Yeah.

- - - and said it's these payments that are the problem?---I agree. If you look
at my first letter, this is how bad my bookkeeping is, I thought I'd only
made two payments it's when I, you know it's only after that I realised that
I'd made more. I mean not that that makes it any different or any whatever.

That's right. I mean however many payments you'd known - - -?---Yeah, I
40 know but - - -

I'm just trying to find out why, why you wouldn't have discussed the
payments?---I, I don't know naivety I suppose or just, maybe I just didn't
want to know. You know one of those things where you think it might go
away, simple, it's all I can explain.

Yes. Yes, Mr Downing.

MR DOWNING: Mr Boobyer, could I just ask you in the course of your dealings with Mr Faysal over the time you were doing work for UTS did he ever say anything to you to the effect that there were other contractors that could do the work you were doing if he wasn't happy with you for instance?---No, I don't think so. I, I certainly don't recall being, I certainly wasn't threatened in any way, I mean I've always been in demand at UTS so you know it's, you know.

10 You don't recall Mr Faysal ever saying anything perhaps to the effect that we can always get someone else to do what you're doing?---No, I don't recall that. We had lots of conversations. Might have joked about things but I don't, I don't a serious conversation where I was, I don't ever, never been threatened by Nabil.

Can I ask you then in relation to your dealings with UTS over the period you did your work there, Mr Faysal ever call you about specific jobs that might be coming up for tender or particular jobs that were being up for quote?---Well I mean yes, we might have been walking through the University and be told yeah, we're going to turn that into a computer lab or
20 you know this work's coming out, I mean I certainly you know knew that certain jobs were coming out but whether I was on them, I mean some of the ones I was told about I was, I wasn't even on so.

And was that the case that you would be told, are you talking about Mr Faysal in what you've just described?---Mmm.

But he might mention to you that there were jobs coming up for tender before the official tender or the request for quotes for coming out?---Yeah. But I mean not just, you know I mean nearly all the project managers that
30 had work coming up would tell me the same thing.

Do you recall him ever contacting you and again I'm talking about the period when you're doing work at UTS, in respect of jobs where you were putting in a quote or a tender and giving you any information about the other people who are interested in a job?---No, not at all.

So never given any information about - - -?---No, I was never, never - - -

- - - quotes or prices from other - - -?---No, no inside information.
40

No information about what you might perhaps do in order to try and secure a contract or - - -?---Only keep my price low and that was the only thing I was ever told.

Can I ask you then again dealing with your dealings with UTS and the period that you're doing work there did you ever have any knowledge about UTS's policies or procedures regarding for instance conflict of interest? ---No, none at all.

So you've never had any communications to - - -?---Not one, not one.

- - - in respect of that?---No.

So you didn't understand what requirements or rules there might be at the University?---I, in the 18 years I've been there to date I still don't know, I have never seen a bit of paper.

- 10 What about their specific procurement procedures, did you have any specific communication about that?---None at all.

You obviously knew that, that procurement was done through either tenders or quotes because that's how you applied for work there?---That's exactly, yeah.

But in terms of the specific rules that govern those processes?---No, not at all.

- 20 Did you ever get an information from UTS about any policy or procedure that might exist in relation to the acceptance of gifts or benefits by UTS staff members?---No, not at all. I mean in what way do you mean? Like if I buy them a bottle or wine for Christmas or something like that or?

Well for instance accepting cash or accepting - - -?---No, I've never had any.

- - - valuable goods or services?---No, no. I got nothing.

- 30 I take it you understood though that that's something that ordinarily is not permitted amongst people that - - -?---Well look I mean I wouldn't go in probably you know and give everyone a thousand bucks I guess just out of the sheer hell of it. I mean I might spend \$1000 at Christmas on grog but that would be it, you know spread it all around.

But in terms of the actual payments that were made here - - -?---Mmm.

- - - is what you're saying that they came about because of the specific request - - -?---Mmm.

40

- - - you received from Mr Faysal?---Absolutely.

What about any knowledge you had of UTS having policies or procedures in respect of staff members being permitted to do outside work?---I had never seen any paperwork. I'm, I mean I'm just guessing it's like a lot of other places that you have to just tell people, I mean there was certainly people at UTS with more than one job so you know.

But that, that's based just on your common experience?---That's just on my, yeah, just on my sort of you know looking around and sort of you know seeing things, yes.

You hadn't had any information specific from UTS about - - -?---No, no, no.

- - - polices or procedures?---No documentation or nothing, no.

10 ASSISTANT COMMISSIONER: Did you know anything about Mr Faysal doing outside work?---Not really, no. I mean I - no. I, I knew that he might do some consulting work outside under sort of mechanical somewhere but that was way back, you know.

How did you know that?---I think Nabil Faysal told me he was working somewhere at the time but that was really early on in, in it, like - - -

What do you call early on?---Well I'd say in that 26, 2006, '07 period.

20 Yes. Mr Downing.

MR DOWNING: Thank you, Commissioner. That's the evidence.

ASSISTANT COMMISSIONER: Can I just ask you why did the payments stop?---It was never asked again.

He just never asked you again?---Never asked me again, it just stopped so I mean one of those sort of unwritten don't ask don't tell.

30 Thank you. Yes. Does anyone wish to cross-examine this witness?

MR STITZ: If I may?

ASSISTANT COMMISSIONER: Yes, Mr Stitz.

MR STITZ: Mr Boobyer, I appear for Mr Faysal. Do you understand that? ---Yes.

40 Did you know Glen Rabbitt?---I do indeed.

Just talking about the '06, '09 period if we can just restrict it to that period? ---Yes, sure.

What did he do?---206, 209 I just got to remember, I mean there was such upheaval up there, at some stage there Glen was always going to be Nabil's boss but they've restructured it so I don't remember when he got promoted to director that's the only thing but at that particular time he would have been Nabil Faysal's supervisor I suppose you can put it.

So your understanding forget about specific titles was that Rabbitt was Mr Faysal's boss?---Absolutely.

Now I just want to talk about Mr Faysal in terms of his work. You indicated that he was very hands on?---Yes.

And in your assessment he was a good or was a very good electrical engineer?---Very good. Certainly knew stuff I didn't know.

10

And to the extent that you would on occasion go and seek out his advice? ---Absolutely, yes, definitely with plans and you know just to work out what we could do. As I say it was a period where the University took off and yeah.

And it seemed to you, did it not, that he was motivated in terms of his work and his hands-on role?---Well motivated.

20 To achieving the best possible outcome for the University?---I don't think motivated is the word. He's the only person I've ever seen at UTS at 9 o'clock at night every night and Saturdays and Sundays, as I say.

Working like a navy?---Well, exactly. I've been there 18 years and I've never seen that.

And he was also concerned about bringing projects in on the right price, wasn't he?---Oh, absolutely, yes, definitely.

30 Now, would it be fair to say that you had a fairly imprecise knowledge about what role he may or may not have had in terms of who was on the contractor's list?---Who, who other, which other contractors were on the list?

Yes?---Yes, I had a rough idea of, you know, it was sort of yes, I did, yes.

And in terms of Mr Faysal's role in who would be on the list, you didn't know whether he had any control over that?---I don't know, no, I haven't got that in concrete no, I'm just surmising.

40 Okay. In fact, thinking about it you would think Mr Rabbitt would have a greater say in that wouldn't you?---You would think, yes, I agree with you.

ASSISTANT COMMISSIONER: Was Mr Rabbitt an engineer, do you know?---I think he's an architect.

Right. It seems to me that on matters in which Mr Faysal was an expert, which there seemed to have been quite a few, you have no doubt that his advice would have carried a lot of weight with the UTS?---Oh, I think so,

yes, because I mean who was going to, I mean, if you're the chief mechanical engineer there's no one going to really sort of come down on you are they? I mean - - -

So that if he said somebody's work wasn't up to scratch do you think that would be - - -?---Oh yes, I'm sure.

10 - - - have an adverse influence on whether they got future work?---
Definitely 'cause he was very keen on good workmanship, so he certainly
wouldn't have put up with any you know cowboys that is for sure.

Yes, thank you Mr Stitz.

MR STITZ: And so far as your dealings and transactions with Mr Faysal was concerned you were of the view that he regarded you as competent?
---Yes, I'd like to think so, yes.

20 Well in fact better than competent you were a good operator?---Well, I
mean I'd like to think so.

Now the meeting that you had at the McDonald's that you went to would it be fair to say that he was very, very upset about the way that he'd been dealt with by UTS?---Definitely, without a doubt.

This was just after his dismissal?---Literally, I think probably a week or two after that maybe, somewhere in that – yes, definitely.

30 And he was getting his grievances off his chest?---Oh yes, definitely,
definitely.

He didn't ask you to concoct any stories or anything to that effect?---None at all, no. I just – well as I say I went along to wish him well really. At that stage I wasn't sure where we were all heading and just to say goodbye.

Now at the end of June this year - - -?---End of June this year, yes.

Yes. Specifically 28 June?---Right.

40 I'm not expecting you to recall the date or even the day of the week Mr Boobyer, but about 28 June this year did you receive a, a telephone message or a voicemail message from Mr Faysal?---No, definitely, definitely not, definitely not. Not that I recall no.

Okay. Now in terms of these payments that were made to his company you say today, well I just regarded it as an insurance policy?---Ah hmm.

And if that was the case at the time it would have occurred to you that it was an improper payment. Correct?---Yes.

That being the case why didn't you just pay him cash?---Had I thought that what I was doing was highly illegal, you're right, that probably would have been the smart move. Giving a company cheque to a company doesn't look very smart. I agree with you.

Because there's a paper trail?---Yes, exactly. I mean I know that it's, obviously I know that it's wrong, but I never ever thought of paying the person, I was paying a company. But - - -

10

Sir, if you regarded those payments at the time as improper can I suggest to you sir that you are not stupid enough to have done it where there'd be a paper trail?---How do you mean?

You're not that dumb - - -?---No I'm not, oh well sometimes, but you know obviously dumb enough to do that, but yeah.

See the fact of the matter is he did provide you with services didn't he?
---Not to my knowledge.

20

You regarded him as an excellent electrical engineer?---I did indeed.

And you had outside projects apart from UTS didn't you?---I have had, yes.

And you brought him in to help?---No, I did not.

You sought his advice?---I did not.

And you paid him a fair dollar for a fair days work?---I did not.

30

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Stitz. Yes, does anyone else wish to cross-examine this witness? Thank you Mr Boobyer, that concludes your examination and you are now excused?---Thank you very much.

THE WITNESS EXCUSED

[12.44pm]

40

MR DOWNING: Commissioner, I'm told that we're running a little bit faster than we had intended and our next witness is due at 2 o'clock. So I apologise for - - -

ASSISTANT COMMISSIONER: Is it - - -

MR DOWNING: If Mr Franjeh is here then I'll withdraw that and we'll move on.

ASSISTANT COMMISSIONER: Yes. Could Mr Franjeh come up if he's here. Mr Doyle, is your client seeking a section 38 declaration?

MR DOYLE: He is, your Honour. Thank you, your Honour, Commissioner.

10 ASSISTANT COMMISSIONER: Thank you. Mr Franjeh, I'm going to make this declaration the effect of which is that nothing you say here can be used against you in future proceedings and the only exception to that is if you breach the Act by providing false or misleading evidence. Do you understand that?

MR FRANJIEH: Yes.

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

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

40 ASSISTANT COMMISSIONER: You're required to take an oath on the Bible or make an affirmation.

MR FRANJIEH: On the Bible.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Mr Franjieh, if you could just tell us your full name?
---Ramsey Philippe Franjieh.

10 And your date of birth?---3/12/1965.

And your address?--- [EDITED].

Now you are a director of and the principal of Regal Controls Pty Limited?
---Yes.

And could you – I'll withdraw that. Your company does what type of
work?---We do automatic controls for air conditioning systems basically.

20 So does that work involve putting in automatic control panels - - -?---Yes.

- - - that then look after and control automated systems like air conditioning
- - -?---That's right.

- - - fire systems?---No, not fire just air conditioning, we maintain
temperature, humidity, pressure - - -

Ventilation?---Ventilation as well, yes.

30 So it doesn't work with lighting systems?---It could I suppose. We can use
the system for lighting as well as automatic controls, but it's not the case
with UTS.

And is it the case that you normally use a particular brand on control panel?
---Yes. Reliable Control we use, it's a Canadian brand.

Right. Sorry a?---A Canadian brand.

40 And is that a brand of controls that you've always used through your
company?---Yes.

Now it's the case isn't it that your company Rega Controls has been doing
work at UTS for some years?---Yes.

And are you able to say thinking back when it was that Rega started to do
that work?---In UTS you mean?

At UTS, yes, sorry?---Yeah, I believe somewhere around end of 2005 I
would say. I can't be 100 per cent sure.

Okay. And it's the case isn't it that in the period from about 2006 through to 2009 Rega was doing quite a significant volume of work at UTS?---Yes.

And rendering quite large fees to UTS in that time?---There was an existing obsolete system and I believe, and we put quotes to replace the system.

Is it the case that once, once you put your system in that is using the Reliable Control panels - - -?---Yes.

10

- - - that then means that in respect of ongoing work to the various systems that are controlled by the panel it makes it - - -?---It makes it easier - - -

- - - more likely – it's easier to continue using the Reliable Control? ---That's right. Because the University had before another system, one system and - - -

20

And what was that system?---I have to remember it, an old obsolete system, no long exist, I mean no longer supported. I can't remember the system, of the name, what the brand.

That's all right. Perhaps have a think about it over lunch?---Sorry. Yep, sorry.

But it's the case isn't it - - -?---I can't remember the system and they had an other system as well, a Johnson Control system as well. And we came as the third one.

30

And it's the case isn't it from what you've just told us that once you install your particular control panel that does give you an advantage in terms of - - -?---Yes.

- - - being able to tender for and obtain ongoing work because they systems need to communicate with the systems that are being controlled?---Yes, you can say that. You can say that, yes.

40

And I'm not sure if you have a recollection of this, but in terms of the actual volume of work would you accept that in the 2006/2007 financial year for instance, for instance that Rega Controls billed something in the order of \$852,938 to UTS?---It could be. I can't remember exact figure, but I'll take your figure as right, yes.

And, that's - - - ? - - - There was a lot of work going on in UTS and they have to get rid of the old system and, um (not transcribable).

And is it the case that most of the work you did at UTS was through the FMU?---I believe so.

And did you understand the FMU is the Facilities Management Unit?---
That's right.

That looked after, as in they would suggest the particular facilities at the
university?---Yes.

So would look after maintenance, cleaning but also contract work?---That's
right, I would assume so.

10 For particular projects at the university?---That's right.

And it's the case, isn't it, that over the period 2006 through to 2008 do you
recall that your work for the university was growing in terms of the amount
and the - - - ? - - - There was a lot of work going on and the system was, the
old system was breaking down and we were there to support obviously.
There was a lot of work going on, yes.

So it's true to say, isn't it, that in that period 2006 to 2008 - - - ? - - - Yes.

20 - - - that UTS was an important client for your company?---Definitely,
definitely.

Very important client for your company?---I would say very important
client, yes.

And, you've continued to do some work at UTS since then haven't you?---I
have.

30 And has the amount of work and the income you've received from that work
dropped off since about 2009, or - - - ? - - - It dropped off because the
volume of work in UTS dropped off as well, and refurbishment has
predominantly, pretty much has been done at that time, the major works, I
would say.

Okay. Through the FMU that you were dealing with?---I would assume,
yes.

40 Can I ask you in the times that you were doing the work that we've
described that I've asked you about for the FMU, how would you come
about to win a contract? Was it a case of putting in a quote or a tender?
How did those things happen?---Well most of the times we put a quote.
There was odd times, few times when we put a tender in the tender box.

And was it your understanding during that time that your quotes or tenders
would go to particular people within the FMU to consider and to evaluate?--
-Yes.

And were there particular project managers who you understood would have some involvement in that process of looking at and making recommendations and evaluating your quotes and tenders?---Yes.

Now can I ask you in relation to Mr Faysal, when did you first meet him?---
On the job site I think in UTS.

That's at UTS?---In UTS, yes.

10 And I think you said you believed you started working there about 2005?---I would, yes, I believe so, I started there.

So was it about that time that you met Mr Faysal?---Yes, yes.

And was your understanding that he had a role within the FMU?---Yes.

And you know from your dealings with him that he has an engineering background?---Yes, yes I do, yes.

20 Did you understand that his role at UTS involved him providing particular engineering advice in relation to projects that were being looked at within the FMU?---Yes.

And did you understand that he was a person who had some role in making recommendations about projects and who might win particular contracts?---
Yes.

And did that apply right through the period that you've been doing your work at UTS?---Yes, until 2009 I think his role was changed.

30 Right?---By 2009, I believe.

Okay?---And he was advisor (not transcribable), technically, technical advisor (not transcribable). This was my understanding.

Okay. And was your understanding, again, if we deal with the period up to 2009 - - - ? - - - Yes.

40 - - - that his position involved him having some influence in terms of making recommendations about particular contracts that might be allocated?---Yes, I believe so.

Okay?---I couldn't be sure, but I believe so, yes.

And contracts involving an engineering element?---Yes.

So that he would have the ability to recommend a particular contract that might do a particular job, to your understanding?---I believe so, yes he was.

And is the case that you had dealings with Mr Faysal during, again we'll deal with the period up until 2009?---Yes.

And was that dealings that you would have with him in respect of jobs that you worked on at the university?---Yes.

So would you see him on a frequent basis?---Yes.

10 Or would he be there to oversee and supervise work?---We would see him on a frequent basis, he's the one, he's our contact person when we install the system. He is pretty much what the technical, call it the guru of the university at that time, or, yes.

So dealing with your area of work where you're installing particular automated control systems - - - ? - - - Yes.

- - - did you understand that he was a person who would be checking to make sure the systems were working the way they should?---Yes.

20

And he would give you feedback about the way in which the systems were working?---I would assume so, yes, yes.

And would he be giving you feedback while you were on the job installing?--I can't remember exactly but yes I would see him frequently at the university while I was installing the system.

Was he someone who you understood had an important opinion in relation to the work that you were doing?---Yes, yes.

30

And whether you were doing work at an appropriate satisfactory level?---Yes.

And someone that could provide advice to the university about whether it would be appropriate for you to be continuing on to provide work at the university?---Could be, yes.

And for instance whether based on your performance on a particular job whether you were someone who was appropriate to be asked to quote or tender on further jobs?---Yeah I would assume so.

40

Because he was intimate with the work you were doing and knew exactly what control work, control panel work you were doing, wasn't he?---Yes, pretty much he knew that.

In terms of his actual position did you understand when he, when you first started dealing with him, what his particular job or job description was?---Sorry, can you repeat?

When you first started dealing with Mr Faysal - - - ? - - - Yes.

- - - you said you thought in about 2005. Did you have any understanding then about what his particular job or job description was?---I was led to believe he was acting project manager or acting, I can't recall, but he was influential.

10 Could that have been a bit later in time do you think, more like 2007 to 2009?---Could be, could be, I can't remember exactly what (not transcribable) but I knew he's a technical person and he, he was making decisions sometimes on, on what to do basically.

And in respect of projects in which you were putting in quotes and tenders and performing at the university?---Yes.

So in the years that you were doing work at UTS, and thinking about the contracts you've had to do particular jobs over that time - - - ? - - - Yes.

20 - - - Mr Faysal has had quite intimate dealings with you in terms of the panels you were installing, is it, is that the case?---I wouldn't say intimate, we were seeing him frequently, you know? At one stage we became friends because we see each other all the time, we talk all the times, about technical matters.

Can I ask you, do you remember having involvement in a project involved in the upgrade of the building one at UTS?---We did that, yes.

30 And do you recall, you may or may not remember project numbers, but do you recall particular projects on that building being project numbers 7-4-2-1-k and 8-4-0-5-k?---It doesn't mean anything to me, this numbers.

For the benefit of the parties, the documents that I'm going to be referring to, Commissioner, are found at 17 to 18 and 61 to 62 of the first of the exhibits folders, so exhibit one, but that might be a convenient time?

ASSISTANT COMMISSIONER: Yes, I think it might be a convenient time to have the adjournment. And we will resume at 2.00 o'clock.

40

LUNCHEON ADJOURNMENT

[12.58PM]