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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY, 24 SEPTEMBER, 2012

AT 2.04PM

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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. Yes, Mr Downing.

<RAMSEY PHILIPPE FRANJIEH, on former oath [2.04pm]

10 MR DOWNING: Just returning to the area I was going to just before lunch, Commissioner, there are a couple of documents I should tender. The first is an investigation report into alleged misconduct by Mr Faysal from Mr Mulhall and it's dated January, 2010.

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 4.

#EXHIBIT 4 - INVESTIGATION REPORT INTO ALLEGED MISCONDUCT BY MR NABIL FAYSAL PREPARED BY PETER MULHALL DATED JANUARY 2010

20

MR DOWNING: There are copies to be distributed to all the parties. And I'll hand up, I've got two, your Honour, two for you Commissioner. And then the second is a report into – an inquiry into allegations of misconduct, a serious misconduct by Mr Faysal prepared by Dr John Barclay of 7 May, 2010. Again, I've got two copies.

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 5.

30 **#EXHIBIT 5 - INQUIRY INTO ALLEGATIONS OF MISCONDUCT/SERIOUS MISCONDUCT BY MR NABIL FAYSAL PREPARED BY DR JOHN BARCLAY DATED 7 MAY 2010**

MR DOWNING: Mr Franjeh, I was just asking some questions before lunch about any recollection you had of a particular job involving building 1 at Sydney University. I think you said you do recall doing some work on building 1?---Yeah, we did a lot of work on building 1 actually, yes.

40 And I'm talking now about a period in October 2007 to February 2008, I don't know if that will help your recollection at all. Do you recall doing work first of all on one particular floor, floor 14 involving the installation of control panels - - -?---Yes.

- - - of about \$43,900?---Yes.

And please tell me if this terminology assists at all, but do you recall that that job also involved installing eight VAV boxes and 16 controllers?---Yes, yes.

Do you recall that work, and I'm referring specifically to in the documents that have just been tendered, there's references at pages 15 and 16 of the first report from Mr Mulhall and then I'll go to references at pages 27 and 28 of the Barclay report, but do you recall that in respect of that work you did the initial work on floor 14?---Yes.

10

And issued an invoice for that and would you accept that the invoice was in the amount of about \$43,900?---If you say so, yes, I will accept that.

That work was then replicated on a series of floors throughout the building?---Typical floors, yes, I remember. This is typical floors, that's right.

20

So that all together there were 17 invoices issued for the same amount in respect of the same work you did on different floors?---I would imagine so because they are typical floors.

And do you recall also that there were 17 invoices at \$43,900 so that the total of those 17 invoices when they were added up came to \$746,300?---I would assume so, yes.

30

Do you recall that those particular jobs involving the work on the various floors in building 1 were jobs that were, that either – well first of all managed by Mr Faysal?---I'm not sure who's the manager, but my relationship at the time was with Mr Faysal. He was the technical person that we need to talk about technically.

Do you recall whether he had an involvement with the actual approval of the individual invoices for each of the \$43,900?---Usually – I'm not sure if he can approve it or somebody else approved it but I usually invoice, send invoices to Mr Faysal via email and he process it for us.

40

Do you recall in that case that in respect of all those floors that you did the work on in building 1 that there was an instance where you'd submitted a quote for the work?---I did submit a quote, yes.

It wasn't a tender?---No, it was a quote.

And do you have any knowledge about the requirements of UTS in terms of the financial level at which a tender is required or the level at which quotes were acceptable?---Not really, vaguely. I don't know exactly what, what (not transcribable) but I've been asked to supply a quote and I submit a quote.

But the person that you were dealing with in respect of that technically was Mr Faysal?---Yes.

In terms of the engineering aspects of the work?---Yes.

So from the questions I've asked you was it your understanding during the period up until say 2009 that Mr Faysal was in a position of influence when it came to - - -?---Yes.

10 - - - issuing contracts within the FMU?---Yes.

And - - -?---That was my understanding.

And what was that understanding based on that he was in that position of influence? Was that based on your specific dealings with him?---I send a quote to Mr Faysal and he'll ask for a quote, give us some specification and based on the quote we'll get an order, basically. And this is sufficient enough for me to say he's, he has some influence.

20 So would he ask you to provide a quote?---Yes.

So if the job's you've described where you've provided a quote to the University would that often involve a specific request from Mr Faysal but you provide the quote?---Look I can't be 100 per cent sure but I would imagine the quote I was sending to Mr Faysal and there's other people who would help him or somebody, I can't you know but predominately I was dealing with him and with other people as well.

30 But a number of the request for quotes came from him directly?---Yes.

Now it's the case isn't it that in the period 2007, 2008 you made through your company Rega Controls a series of payments to Mr Faysal or to his company NA & CW Investments Propriety Limited?---I remember there's two payments, two cheques that's the only ones I have remembered.

You have a recollection of two?---Yes. According to my documents only two.

40 If I could ask that you first of all have a look at page 810 in the exhibits folder?---Page 110. Where can I see it, here?

The folder will be - - -?---Yeah, okay, sorry.

It's in B?---Ah hmm. I don't know about this one, I have no idea what is this.

Just looking at it for a moment though you see that that's a record of a deposit into an account for NA & CW Investments on 1 December 2006?

---Yeah. And there's Rega Control written on it and I don't at all, I don't know who wrote Rega Controls but I don't have this on my system but I don't believe at all I paid it. It could be by mistake deposited by somebody else but I don't know anything about this.

Can I ask in terms of authority to write cheques assuming that it was in fact a cheque from Rega Controls it would have been written by you?---I'm the one who can write it, yes, I write the cheques.

- 10 So is it possible that in respect of that payment that it was made by you but you don't recall now?---Maybe there is one per cent chance of it but I went into system (not transcribable) so many times and I could not see this. If we can have a copy of the cheque from, I can, would be more evidence but from the, from the slip here, deposit slip it shows somebody written Rega Control but still I don't believe it's come from Rega Control because my recollection was two cheques only both of them in the amount of \$35,000.

Well we'll come to those in a moment?---Sure.

- 20 Is it possible that your recollection about the number of cheques is not entirely accurate?---Highly unlikely but could be, could be, could be highly unlikely.

If I could then ask you to have a look at page 811?---Yes.

You'll see that that's a record of a deposit into an account for NA & CW Investments - - -?---Yes.

- - - for 31 May 2007?---Yes.

- 30 The cheque of \$4120 and again the drawer is reported as Rega Controls? ---Cheque number 1676. But it could be but I, I have no recollection on it, I have no recollection at all from, from this cheque at all, it could be I can - maybe one per cent I would say (not transcribable) maybe I don't know, I don't have no recollection at all of this cheque, of this number 4120.

All right. You said before you do have a recollection of two cheques - - -? ---Yes.

- 40 - - - and you said I think the figure of about \$17,500?---No, 35.

ASSISTANT COMMISSIONER: He said 35,000.

MR DOWNING: I'm sorry?---35 for both.

I'm sorry. 35,000 for the two?---For both, yes.

I apologise for that, Mr Franjeh. Now if I could you to have a look at page 812?---Yeah.

Do you see that's a deposit record?---Yes, that's right.

Again into an account for NA & CW Investments?---That's right.

Do you see there it shows two cheques deposited - - -?---Yes.

10 - - - on 11 October 2007?---Yes.

One for \$17,300 - - -?---Ah hmm.

- - - and one for \$17,700?---Yeah.

Now are they the cheques that you recall - - -?---Yes.

- - - drawing?---But one of them for NA & CW Investment and one for NA Gift whatever it is there is two company that I remember.

20

There'll be some evidence about that separately?---Yeah, sure.

But do you understand that that you were issued a number of invoices in respect of engineering work?---Yes.

And some invoices in respect of gift products?---Yes.

Right. I'll take you to the invoices in a moment. Would you accept from me that - well, do you have a recollection that it might have been the one company but just issuing you invoices in respect of different types of work? ---Could be, yeah.

30

Now, these are your, these are the two cheques you recall providing?---A hundred per cent, yeah, this is the one on my system, on my chequebook, the others I don't. Sorry, the others as well, the number of the cheque, 16, something is after this one, it can't be. If you go first 1676, it cannot be, which is after the 1766, yeah, something is wrong there.

Well, Mr Franjeh, do you see the numbers of the two cheques on page 812 are 1766 and 1767?---Yeah, these are two cheques I wrote but the one you showed me at the end of 2007, right, isn't it?

40

Well, the one on the previous page 811, which is May 2007, so earlier in time - - -?---Oh.

- - - is 1676?---Oh.

So it is earlier in sequence isn't it?---Oh, yeah, look it could be but I don't, I haven't, I don't about this sorry.

But that would fit into the sequence of your cheques wouldn't it?---Could be, yes, could be, yes. I don't know.

And going back to that page before that - - -?---Yes.

10 - - - at page 810 the cheque for 1 December, 2006, that shows a cheque number 1534?---Mmm.

So again earlier in sequence from the two cheques you do remember in October 2007?---Yeah. I don't remember any of these cheques at all and they are not on my system and I cannot see it at all.

Sorry, when you say any of these cheques at all, do you mean other than the last two?---Other than the last two, sorry, the last, yeah, yes.

20 All right. Do you recall, other than those records I've showed you of deposits into the NA & CW Investments account - - -?---Yes.

- - - do you recall making any other payments to Mr Faysal or to that company?---No.

Now, can I ask you, do you recall that at some point Mr Faysal provided you with a series of invoices in respect of work said to have been done by him or gift products said to have been provided by him?---Yes, yes.

30 Can I ask you to start at page 690, so we're in the same volume, if you go to page 690 of the exhibit?---Yes.

You'll see that's an invoice number 0610-18?---Yes.

From NA & CW Investments to Rega Controls?---Yes.

In respect of work done at Westfield Liverpool Shopping Centre?---Ah
hmm.

40 In the sum of \$2,500?---Yes.

To the best of your recollection was that an invoice that Mr Faysal provided to you?---I haven't seen this invoice before.

If I could ask you then to have a look at one, at the next page, 691?---Ah
hmm.

It's an invoice of 6 November, 2006, again from the same company, NA & CW Investments to Rega Controls?---I haven't seen this invoice before.

You haven't seen this one. If you then go to page 697, this is an invoice, number 0710-15 of 2 May, 2007 from NA & CW Investments to Rega Controls in respect of work at Monte Sant' Angelo Mercy College?---I haven't seen this invoice.

You haven't seen this before?---No.

10 If you could go to page 808 in the same volume. Now, do you see this invoice is one dated 17 August, 2007, the amount of \$3,000 in respect of the supply of corporate gifts and shirts and hats?---Yes. Oh, this - - -

Have you seen this one before?---Yeah, this enter that I, I supplied yeah, this one, there was eight of them.

Sorry, you've seen this before?---Yeah, I believe so, the one that I have, there was eight invoices.

20 Right?---Four and four I received from Mr Faysal and paid him.

So these, this is an invoice you have seen before?---Yeah, yeah, yes.

And you received this from Mr Faysal?---Sorry, received the invoice from Mr Faysal, yes.

Yes. And you paid it?---I paid it, yes.

Okay?---Alongside with other seven invoices.

30 All right. Well, I'll take you to the next one. If you go to the next page 809?---Ah hmm, yes.

This is an invoice of 24 August, this time for corporate gifts of pants and jackets for \$4,900?---Yes.

Is this one you've seen before?---I've seen it, yes.

Received it from Mr Faysal?---Yes.

40 And paid it?---Yes.

All right. Can you then go to page 802? Now this is another invoice dated 24 August, 2007, but this time not in respect of corporate gifts but in respect of engineering works that had been done at 25 Smith Street?---Yes.

Have you seen this invoice before?---Yes.

And was this given to you by Mr Faysal?---Yes.

And you paid it?---Yes.

All right. If you could then go to page 804. This is an invoice of 11 September, '07?---Yes.

This time in the amount of \$4,600?---Yes.

10 For Mr Faysal's company NA & CW Investments to Rega Controls?---Yes.

This time in respect of work in the car park CO system or in respect of the car park CO system at Liverpool Shopping Centre, Westfield?---Yes.

Have you seen this before?---Yes.

And this is one that – was this one Mr Faysal provided to you?---Yes.

And you paid?---Yes.

20 If I could then ask you to go to 807. This is another invoice this time dated 12 September, 2007 in respect of corporate gifts?---Yes.

Pens and stationery?---Yes.

In the amount of \$4,500?---Yes.

Now is this an invoice that Mr Faysal provided to you?---Yes.

30 So you've seen it before?---Yes.

And you paid this one?---Yes.

If I could then ask you to go to – sorry, I'll withdraw that, 699?---All the invoices have entered on it or paid means it's on my system. You've received and entered - - -?---I've received them and entered it.

Thank you?---This is, sorry, this one no, it resembles another invoice I received (not transcribable) but the value is wrong and I haven't - - -

40 Sorry, which page are we talking about?---This one here, 699.

Oh sorry, I'll just come to that now?---I haven't received it, yeah.

So 699, have a look at that, is an invoice of 30 September, '07?---Ah hmm.

To you in respect of 25 Smith Street?---Yes.

For ventilation documentation and controls for the site stage 1 in the amount of \$4,550. Now is this one that you've seen before?---No.

And you didn't receive this from Mr Faysal?---No.

And you haven't paid this one?---No.

10 All right. Can you go - - -?---The one I paid of eight invoices have entered on it, each one have entered and there was two cheques, one bill, two companies, four of them bundled together and one cheque on it and other one bundled four of them together another cheque on it. These are the only invoices I received and paid (not transcribable)

If you could go to page 805. Now this is an invoice of 2 October, '07 again in respect of Monte Sant' Angelo Mercy College, this time in the amount of \$4,900?---Yes.

20 Now this one is stamped entered?---Entered, yep, that's the one I received, yes.

Do we take it from that that this is one you have seen before?---Yes.

You received from Mr Faysal?---Yes.

And you paid?---Yes.

If I could then ask you to go to page 806. This is a 10 October, 2007 invoice?---Yes.

30 Coincidentally in the same amount as the last invoice, \$4,900?---Yes. Yes.

And this time in respect of the supply of corporate gifts, notebooks and mugs?---Yes.

And this is stamped entered?---And paid.

So we take it from that that this is one you've seen?---I've received it, yes.

40 You received it from Mr Faysal and you paid it?---Yes.

All right. There are now three others later in time than this. Could I ask that you go to page 701?---Ah hmm.

Do you see that invoice?---Yeah.

That's 0710-26?---Ah hmm.

Now it's another invoice, this time it's dated 11 November, 2007 addressed to Rega Controls?---Mmm.

Again in respect of the car park CO system at Liverpool Shopping Centre, Westfield?---Yes.

This time for \$4,000?---I have not received this.

10 You've not received this?---No. If it is not entered I think I haven't received any of them.

So you haven't seen this before?---No.

All right. If you could go to page 702. This is a 2 December, 2007 invoice? ---Ah hmm.

In respect of work again at Monte Sant' Angelo Mercy College?---Ah hmm.

20 \$4,240. Is this one you've seen before?---No.

You haven't received this from Mr Faysal?---No.

And haven't paid it?---It's a, it's a made up invoices, I haven't seen it before, no.

Accept from me, Mr Franjeh, that some of these have been obtained from Mr, Mr Faysal's own records?---Yes.

30 But you haven't seen this one before and haven't paid it?---No.

The last invoice, if you go to page 703, you'll see this is dated 2 February, 2008?---Yeah.

It's a reference again to the Smith, 25 Smith Street location?---Yeah.

And it refers to provision of ventilation documentation and controls for the site, stage 2 and it's in the amount of \$9,550?---I have not received this, I haven't seen this before till you brought it to me.

40 And you haven't paid it?---Of course not, I haven't seen any of these, no.

Now, the invoices I have shown you today, putting aside the corporate gift, giftware which I'll come to in a moment, they refer to engineering design or engineering work done at a couple of, at three different locations, first of Westfield Liverpool?---Yes.

Secondly Monte Sant' Angelo Mercy College?---Yes.

And is that in North Sydney?---Yes.

And thirdly 25 Smith Street?---Yes.

Do you understand that to be an address in Parramatta?---Yes.

Now, were those three locations locations at which your company Rega Controls had done some work?---Yes.

10 Now, you've seen the invoices that I've taken you to, some of which you say you received and paid, some of which you say you haven't?---Yes.

Can I ask you first of all in respect of Westfield Liverpool did Mr Faysal through his company NA & CW Investments Pty Limited provide you with any engineering services or works in relation to that Westfield Liverpool job?---No.

Well, one of the invoices that you paid as I understand it relates to that job. That's correct isn't it?---Yes.

20

Can I ask you then to think back to the circumstances how was it that you came to make this payment to Mr Faysal's company? Sorry, I withdraw that. NA & CW Investments, did you understand that to be Mr Faysal's company?---I did not know at that time till he asked me for, for some money.

Well, at that point did you learn that it was his company?---Yes, he, he told me so.

30 Can I ask you then, doing the best you can to think back to the first occasion which would seem to be, according to the documents in 2006, although you say your first recollection of making a payment was in 2007, but think back to the first instance when you made a payment to Mr Faysal, can you please indicate to the Commission your recollection as to how that came about?
---The first deposits I don't believe are from my company because on my chequebook it doesn't, does not belong to NW, Mr Faysal at all and maybe he put, wrote the deposit, wrote wrong name on the deposit slip, I don't know but the only cheques I gave him are the two cheques for \$35,000 combined.

40

That's in October 2007?---Yes.

Right?---Mr Faysal asked me for some money.

Can you recall where you were or what the circumstances were?---I can't remember exactly but he said he needed some money, about \$35,000. It could be later on he wanted to buy a car for his wife and he needed \$35,000 addition. I was - - -

Can I just stop you there for a moment?---Yes.

That was at a time when you were doing work at UTS?---Yes.

And was at a time when you would see him at UTS fairly frequently?---Yes, yes.

10 Doing the best that you can now do you believe that that discussion and the request for money was something that happened at UTS?---It could be, I can't remember exactly but it happened.

Well, where else besides - when you saw him face to face?---UTS, sometimes, yeah, but UTS or maybe having a coffee outside UTS, around the buildings or could be in UTS mostly likely, yes, as you said.

20 Did you sometimes in the course of doing work at UTS meet with Mr Faysal and have a coffee at one of the coffee shops nearby?---Yeah, could be, yeah.

Well, again assuming, you're telling us that your recollection is that the first request happened around the time of the payments in October '07 so that he made a request for money?---Yes.

And you paid you've told us from your, you recollection and the records, a total of \$35,000?---Yes.

Did he ask you for that amount of money?---Yes.

30 Do you recall him saying anything at all about why he wanted it or why you should pay it?---He said he needed \$35,000 he want to buy his wife a car but he needed that much money to buy a car.

Your recollection is that he mentioned - - -?---Yes.

- - - wanting to buy a car? I take it that would have come as a bit of a surprise to you the request that you should provide money for him to buy a car for his wife?---I was scared.

40 Well at that point you had been doing work for the University for some time and that was work that you'd been paid for by the University?---Yes.

What is your understanding of the nature of the request, what did you think he, why did he think, why did you understand that Mr Faysal would think that you would be paying him some money?---I, I don't think (not transcribable) I mean I'm, I think this is wrong and I, I was very upset and scared but he said you know he have a company that he work outside, I ask him does his boss know about it he said yes, Glen knows about he's

working outside and I said I cannot justify having all this money on my project I have two, three and, and I cannot justify, he said his wife had another corporate company that he can give suppliers with gifts and so I said well you have to give me invoices I can't, I can't just pay it like this and I was really upset and scared and I said it cannot be small amounts put on a project because and that's what he gave me four and four invoices.

So four for engineering works?---And four for gifts to justify the \$35,000.

10 Well I asked you about the, the Westfield Liverpool - - -?---Yes.

- - - references in the invoices?---Yes.

What about Monte Sant' Angelo Mercy College did you do some work there?---Of course, yeah. I've got my system there, control system.

At any time did Mr Faysal provide you with any engineering services or advice or documentation in respect of that project?---He gave me the Australian Standard.

20

Physically gave you a document?---Yeah. He printed out or gave me a document the Australian Standard 1668.2. I didn't have it at that time, he gave it to me.

Was that to do with project at Monte Sant'?---No, just in general, nothing to do with this project, no.

30 Was that a document that was what, relevant to some work that you were doing at UTS?---Just a general document this is, the Australian Standard general document.

Can you recall when it was that he gave you that document?---I don't remember it could be before or after the invoices I don't remember exactly.

It wasn't - to the best of your recollection was it at a time when he was actually asking you for the money or was it at a separate time?---No, this is the one. Sorry, say that again?

40 The, sorry. The time when Mr Faysal gave you the Australian Standard document - - -?---Yes.

- - - was that at a time when he requested money from you or was that a different time?---It could be I can't remember, I can't recall exactly.

But putting aside that provision to you of the Australian Standard document you're talking about a photocopied printed document?---Yes.

Did he ever provide you with any actual engineering advice or design or documentation or any engineering service in respect to the Monte Sant' Angelo Mercy project?---No.

Does the same apply to the 25 Smith Street, Parramatta job?---They all apply for all, yes.

Is that a job that you actually did?---Yes.

10 And was that a commercial premise?---Commercial, yes.

And did Mr Faysal provide you with any engineering advice or documentation or design or any engineering service in respect to that project?---No.

So was it the case that at no time up until today's date has Mr Faysal ever provided you with any engineering services of any nature?---No.

20 Are you agreeing with me that's correct?---That's correct, yes, I agree with you.

So what he has done separate to his work at the University, UTS is you say he's given you one copy of an Australian Standard document?---Yes, he did.

Now returning to the corporate gift invoices - - -?---Yes.

30 - - - they refer to a number of different types of corporate gifts. They refer first to shirts and hats. Did Mr Faysal through his company provide you with any corporate gifts in the nature of shirts or hats?---No.

Did he provide with any corporate gifts in the nature of pants or jackets? ---No.

What about corporate gifts in the nature of pens and stationery?---No.

Or corporate gifts in the nature of notebooks and mugs?---No.

40 So the true position is that at no point did he provide you with any corporate gift items at all?---That's right.

Well going back to the discussion when you say he asked you for the money you say he nominated the figure of \$35,000?---Yes.

And suggested that the wanted it in order to buy his wife a car?---Yes.

I take it you knew that was improper?---Yes.

That this was a man who you were involved with at UTS where he had some role in relation to the work you were doing and the allocation of contracts and he was asking you for money?---Yes.

And do you say there was a discussion then about – at that point about him providing you with invoices to cover the payments?---Yes.

10 Did he suggest that he could provide you with invoices for various things or did you suggest it?---I can't recall but I was scared and I said, you need, you need invoices for it. I can't remember if I did or he did, but I mean - - -

Well you knew he was an engineer?---Yes.

I take it at that point you had no idea, this is in October 2007 that he was someone that might be able to provide corporate gift items?---I didn't know that, no, not before.

Was that something he suggested?---Yes, he suggested it.

20 Did he say something about the fact that he could give you invoices in respect of engineering works and you would just have to tell him a project that you were doing and he could give you an invoice that made it look like you were doing - - -?---Yes.

- - - he was providing engineering input or services in respect of that project?---That's what it's made, I give him the project name and he make the invoices for the projects name.

30 So did he ask you to give him the names of projects that you were working on - - -?---Yes.

- - - so he could come up with the invoices?---I believe so, yes.

In order to – did he say something about we can do that so that we can cover the payments?---I would say so, I can't remember the exact words, but it is a fact, yes.

Was there a discussion to that effect that - - -?---Yes.

40 - - - he will be providing invoices - - -?---Yes.

- - - for work that I'm not going to do but it will relate to the payments?
---That's right.

Was there a similar discussion in relation to the invoices for corporate gift items?---Yes.

Did Mr Faysal suggest to you that he could provide invoices indicating that

he was going to give you, supply to you through the company, NA & CW Investments, gift items?---Yes.

And did he say something about the fact that his wife had previously had a gift business - - -?---Yes.

- - - and that he could make it look like that was being supplied through his company?---Yes.

10 And again was the discussion to the effect that there would actually be no gift items supplied, it would just be invoices supplied - - -?---Yes.

- - - in order to cover the payments?---Yes.

You've told us that you were scared, can I ask at the time when he asked for the money why did you pay?---Look we have, we were a young company and I thought about my family, I mean hardly anybody will give a chance for a young company, two years old maybe. And the work was there and thinking about my family and my employees' family well I, I did it, but I
20 insist on kind of, you know, invoices or something. I was - - -

Well did it cross your mind that you might refuse to make the payment?---I don't remember exactly if it crossed my mind. I mean the person was giving us work and, at that time and I don't want to upset them.

Was your concern that if you didn't make the payment after he'd requested it that that might have some impact on the work you were doing at UTS?
---Yes.

30 And that on the other hand if you did make the payment it might ensure that the work continued or even increased?---Could be, yeah.

Do you recall if Mr Faysal said anything specific around the time of the requesting the payment or even before about looking after you or ensuring that you got work at UTS?---He would say most of the time as I recall his word, there's a lot of work coming from UTS. That's his word, there was a lot of work coming from UTS.

40 His words to you?---Yeah. And this is enough for me, you know.

So at the time he requested the money you connected that comment with the request for the money?---I would assume so, obviously think so.

Well why else would you pay it?---Yeah, that's right, yeah. Yes.

So it's the case isn't it that all of the invoices that you've received and seen and paid are false, they didn't relate to any real work or real product ever provided to you?---That's right.

And I showed you a number of invoices that you say you hadn't seen before?---I have never seen these before, I don't know what happened, what are they for, who made them, I don't know.

Well, assuming that they came from Mr Faysal or his company they also relate to things, work that you never did?---Yeah. I haven't seen any of them.

10 And products that were never supplied?---That's right.

Now, do you recall, do you recall in respect of the invoices that you did receive and pay, were they received just prior to the payments that you made?---Yes.

Now, you learnt of this investigation into Mr Faysal's conduct earlier this year, that's correct isn't it?---Yes.

20 When you received a document seeking that you produce certain documents to the Commission?---Yes.

And is it the case that since that time, since you learnt of the investigation, you've spoken to Mr Faysal in relation to, for instance, the payments that you made to him?---We spoke, yes, before.

Do you recall having a telephone conversation with him in May of this year in relation to the, the payments?---(No Audible Reply)

30 Do you recall that, having a telephone conversation with Mr Faysal on 23 May this year when you spoke to him specifically about the payments you'd made to him?---Could be, yeah.

And do you recall ringing him and mentioning specifically the figures that you'd paid to him, that is the \$17,700 and the \$17,300 and suggesting that you needed to talk to him?---Could be, yes.

Well, do you recall Mr Faysal saying anything to you about perhaps meeting and - - -?---Yes.

40 - - - talking so that you could get your story straight about what the nature of the payments was?---We met, yes.

And what was the nature of the discussion when you met?---His situation with the, with the UTS, that he had been sacked obviously.

So he told you that?---Yeah. And the payment that, you know, we (not transcribable) the payment of work he was telling me and for goods supplied.

So he told you that you should stick to the story what the invoices said?
---Yeah, yes.

And did you meet with him in person to, to have that discussion?---I met with him, yes.

Did he come around to your office?---He came once, yeah, he came to my office.

10

And was his, was his response to what you asked him to tell you that you should just stick to the story of what the invoices said?---I don't know for that fact but he mentioned that this is the way, yeah, we should stick to the story.

And that's what - - -?---Stick to the story.

I'm sorry?---Yeah, stick to the story like, you know.

20 And did he indicate that's what he would, he intended to do?---Yes.

Now, it's also the case, isn't it, that in the period that you've been dealing with Mr Faysal at UTS that you through Rega Controls have provided him with certain gifts and benefits besides the cash?---Yes.

Gifts and benefits?---yes.

Do you recall in earlier this year providing him with an iPad?---Yes.

30 And can you tell me how that came about?---From memory he was, he said he was looking, he wanted to buy an iPad and I, I don't know, I might have bought it for him and gave it to him as a present.

Did he raise with you his interest in an iPad?---Yes.

Say that he was interested in getting one?---Yes.

Did you take his conversation in raising that issue of wanting an iPad as a hint that he might like you to get it for him?---Maybe I - yes.

40

And you bought it for him?---Yes.

And you gave it to him?---Yes.

And I take it he hasn't given you any money in payment for the iPad?---No.

Now just dealing with travel for the moment?---Yes.

It's the case isn't it that you through your company Rega Controls have provided quite a bit of travel that's overseas travel for Mr Faysal and his other family members - - -?---Yes.

- - - in the years from about 2006 through to more recent times?---Yes.

And is it the case that on each occasion you've paid for travel by Mr Faysal?---Yes, on a few occasions, yes.

10 And I'll come to the specific dates in a moment - - -?---Sure.

- - - but it's the case isn't it that where you've paid for travel for Mr Faysal and his family members that's travel that you've paid for and you haven't received any repayment from Mr Faysal or his family?---That's correct.

Well can I start with a trip in June, 22 June to 24 July 2006 do you recall paying for Mr Faysal, his wife - - -?---Is it (not transcribable) Yeah.

20 And his daughters Sarah, Rebecca and Alyssa. Do you recall paying for them to travel to Lebanon and back?---Yes.

And do you recall that this was travel that you organised through a travel agency in Marrickville called Tadros Travel?---Yes.

Was that an agency that you booked a lot of travel through?---Maybe once I've used, one or twice I can't, this is not the norm, I think - - -

30 Sorry, this is?---It's not the norm that I go through usually. I travel through maybe, maybe once I've used this travel agency or twice, I can't remember exactly.

But you, you accept don't you that you booked the travel for - - -?---Yes.

- - - Mr Faysal's wife and children on this - - -?---Yes.

- - - Tadros Travel in Marrickville?---Yes.

40 Can you recall why you used them for this booking?---I can't remember exactly but I think Mr Faysal asked me if you know he want to go to Lebanon and if I can pay for the trips.

Well so he asked, he told you that he wanted to go to Lebanon - - -?---Yes.

- - - and asked you if you could pay for the trips?---I believe so, yes.

Can I ask why you would pay for the trips?---It's, paid it I mean the - he was influential and he could give us more work and I just paid it, I did a mistake and I paid it.

Would you accept and there are documents from the travel agencies and the airlines involved but the cost of that trip was \$8547.12. Does that accord with your recollection?---Could be, yes, I believe so.

Do you recall in August 2007 - - -?---Yes.

- - - paying for a trip for a Ms Takla El Kassouf to travel from Lebanon to Australia and return?---I recalled after I saw the evidence, yes.

10 And do you understand Ms Takla El Kassouf to be related to Mr Faysal in some way?---Yes.

What's your understanding as to his relationship?---Could be sister-in-law or something, I can't really 100 per cent know.

Do, do you have a recollection of how you came to pay for this trip?---Mr Faysal asked me (not transcribable) don't have any relation, I mean obviously he asked me.

20 And you paid for the travel?---Yes.

Do you have any recollection now about what the, the cost of that was? ---No, not a clue, I don't remember, I don't know.

If I could just ask you for the moment to have a look at page 530 in the exhibits which is in the 3B the second folder?---Yes.

Do you see that document is an email?---Yes.

30 And that's an email from you?---Yes.

An email from you to Mr Faysal?---Yes.

And annexed to that email is some travel documents?---Yeah.

If you go to the top of page 531. Are you able to read that?---Yes.

And you see it lists the person there El Kassouf (not transcribable)?---Yes.

40 And then there's a reference there to flights EY, take it from me that refers to an Etihad Airlines flight?---That's right, yep.

From Beirut to Abu Dhabi, Abu Dhabi, Sydney and then return?---Yes.

To the best of your recollection is that the travel that you organised and paid for?---Yes.

For Ms El Kassouf?---Yes.

And you say that that came about after Mr Faysal spoke to you and asked if you would pay for it?---Yes.

You've told us already that in relation to the earlier trip for Mr Faysal and his family to Lebanon and return that after the request was made you paid it because he was an influential person in relation to the work you were doing at UTS?---Yes.

10 Was this paid for the same reason?---Yes.

What was your concern if you'd refused to pay for one of these trips?
---Obviously jobs and I've got my family and the employees' family, I mean we just - - -

Well UTS was a fairly significant source of your income during this period wasn't it?---At the time, yeah. And the company was starting you know like two, three years, hardly - - -

20 Now after this trip do you recall paying for a further trip for Mr Faysal and his family this time the five children - - -?---Yes.

- - - to Lebanon in June and July, 2008?---Yes.

And specifically Mr Faysal's wife departing Australia on 28 June, 2008 returning on 26 July, 2008 and Mr Faysal travelling a couple of days later on 1 July, 2008 and returning on 26 July, 2008?---One trip this - - -

30 One trip but different departure dates?---Yeah, I'm not sure. Yeah, I don't know how they depart, I don't know what, but I paid for it in 2008, yes. One trip for everybody.

And do you recall on that occasion it was for Mr Faysal, his wife and his five daughters, Sarah, Amanda, Julia, Rebecca and Alyssa?---Yes.

And are you able to tell us now how that came about? Was it a discussion with Mr Faysal that led you to - - -?---The same thing as before, he asked me for payment and I pay him.

40 And I take it again that it was an instance where you were concerned that he was influential in relation to the work you were doing?---Bloody oath.

And again would you accept in respect of this trip that it was booked through Tadros Travel?---Sorry, which one?

Tadros Travel?---Could be, yes, yes. Yes. If I could ask you to have a look at page 544?---Ah hmm.

Do you see that's a document from Tadros Travel?---This is the same flight isn't it?

Referring to the flights - - -?---Yes, yes, that one.

Sydney, Abu Dhabi, Beirut, Abu Dhabi, Sydney?---Yes.

For Mr Faysal and his family?---Yes.

10 And this is part of the travel you paid for isn't it?---Yes.

Sorry, I'll withdraw that. It refers to the travel in June and July, 2008 that you paid for?---Yes.

Do you recall that the total cost of that travel was approximately \$16,200? ---16, I don't recall that much, I thought it was 11 something thousand. In my books 11,000 something.

Well take it from me there's a statement from - - -?---Okay.

20

- - - (not transcribable) at Tadros Travel?---Yes.

That's who you booked it through?---Yes.

You made the payments?---I accept that. I accept that, yeah.

Do you accept you might be wrong in terms of the exact dollar amount? ---Yes, I accept I might be wrong in terms of that.

30 After that trip do you recall paying for a trip for Mr Faysal alone, that is not with his family, but to travel to Germany and other parts of Europe in October, 2008?---I don't recall that at all.

I'll take you to the documents?---Yes.

Do you recall organising for him to travel between, or paying for him to travel, between 18 October 2008 and 28 October 2008?---I don't remember, can I see the document?

40 I'll take you to that in a moment. If I could ask you to start at page 584. Do you see that's again a Tadros Travel document?---Okay, yeah. Yeah.

And the travel consultant is listed as Maria. Do you remember a Maria Anissa?---Yeah, I remember Maria.

That you dealt with?---Yes.

And you see it's a booking for Mr Faysal?---Yes.

Um, and there's reference there to travel from - - - ? - - - Sure.

- - - Sydney, Abu Dhabi, Abu Dhabi, Beirut, then Beirut, Paris, take it from me, B-a-y is Beirut, C-d-g is Paris Charles De Gaulle Airport?---Sure.

Charles De Gaulle then to Dusseldorf?---Ah hmm.

10 And T-x-l is Berlin, Berlin Tegel. Then to Frankfurt, Frankfurt, Abu Dhabi, Abu Dhabi, Sydney?---Yes.

And, if you go to the next page, page 585 - - - ? - - - Ah hmm.

- - - do you see that's an invoice from Tadros Travel made out to your company for 11,655?---Okay.

Is it possible that this was the figure you were thinking of in respect to the last trip?---I thought, I thought this belonged to the first trip, not for this one.

20 Right?---Because I looked, when I looked at these I thought there was some, somebody paid with American Express which I don't have, later on.

But in respect of this trip, you accept that you paid the \$11,665?---Yes, definitely I accept that (not transcribable).

And you accept for me that it involved business class travel for Mr Faysal to take this trip?---Yes, if that's what, what it say, yes.

30 Do you also recall, um, in respect to this trip, paying for travel insurance for Mr Faysal?---I don't recall but I take your word for it.

If I can ask you to look at page 597?---Ah hmm.

Do you see there there's a document in respect to travel insurance?---Sure, sure.

And it refers to Tadros Travel and Maria?---Sure.

40 That's who you were dealing with?---Sure.

You organised a trip for Mr Faysal through Tadros Travel, didn't you? It wasn't a case of him contacting Tadros Travel?---No, I believe he will contact them and will ask me to pay and I'll go pay for it.

But to the best of your recollection did you pay for the travel insurance as well?---I don't remember but it could be, it could be as one, it could be he paid for it. I can't remember exactly.

ASSISTANT COMMISSIONER: Did you agree to pay business class?
How did that come about?---Well he would organise it and ask me to pay
and I would pay, I'd pay, I pay it.

So it was up to him, he could make it business class or whatever he liked?
---That's what, obviously it is, that was - - -

MR DOWNING: Do you recall then after this trip, a trip where Mr Faysal
alone travelled to Lebanon and then returned between 28 February 2010 and
10 13 March 2010?---I don't recall the trip.

Do you have any recollection of paying for this one?---No, I don't think,
there's few trips I saw somebody else pay for it, I saw an American Express
on it, I don't own an American Express card, and I mark it, my words.

So you don't have a recollection of paying for this trip?---No, anything
that's written on it, I saw went through American Express, I don't book it, I
don't own one. Must be other contractor or somebody else.

20 Moving on from that date do you recall that in the period June to August
2011 - - -?---Yes.

- - - that you paid for one of Mr Faysal's daughters Amanda - - -?---Yes.

- - - to travel to from Sydney to Madrid and return?---Yes.

And do you recall that was for the purposes of her attending an intensive
language course?---No, I thought was, she was going for the youth
movement or youth catholic youth, that's what I thought.

30 Well did Mr Faysal approach you and ask you to pay for this travel?---Well
he said she's looking for, his daughter is looking for some you know
sponsor, people to sponsor her she going to Spain and I assumed that she's
going for the world youth together and I can't remember I think either I
volunteered to pay for her that's what I thought, I volunteered to pay for her
at that time.

40 But did he say something about the fact, the purpose of her trip?---He didn't
say anything. Either he - I was either I, in my mind it was for the youth,
world youth she's going for because we belong to the same church, catholic
church that's what I assumed.

But did Mr Faysal say to you he would like you to pay?---I can't remember
exactly if he said it or not, I can't remember that.

Well - - -?---But, yes.

Your - do you have children?--- Yes, I do.

And do you and your children attend the same church as Mr Faysal?---Not really (not transcribable) I mean sometimes we go, we belong to the same church, the (not transcribable) church. There's a few occasion that we go to the church but we attend the church St Luke's beside us which at the catholic church (not transcribable)

10 Well was it through the church you became aware of World Youth Day being on in, in Spain?---Yes, through the church or the media I knew that the world youth is on but I don't know the exact date and I assumed that his daughter's going to Spain for the Youth World Day.

Well did, did any of your children go?---No, no, my children, no, I won't sent them.

So your children didn't go?---No, no, I've got - - -

Well why - - -?---The eldest, my eldest is now 15.

20 But why would you pay for Mr Faysal's daughter to go?---He was technically influential in, in, in our work and if he say we do this, if, if he indicted I would somehow try to please him somehow.

Well do you think there was some discussion with him that prompted you to make the offer of the payment or was it simply the case of you offering completely - - -?---I believe could be there was a discussion, I can't recall the exactly discussion but I can't remember exactly how it happened but well I paid it.

30 ASSISTANT COMMISSIONER: Well I think you said, he was asking for a sponsor?---He was asking for a sponsor, yes.

Well that's just another way of asking - - -?---Yes.

- - - someone to pay isn't it?---Yeah, yeah, that's right, that's what it is, yeah. That's right.

40 MR DOWNING: Well if I could ask you to have a look at documents at page starting at 614?--Ah hmm.

It's a document from Emirates Airlines but if I could ask you to go specifically to page 617?---Mmm.

Do you see that's a Flight Centre document setting out travel details for Ms Amanda Faysal?---Yeah.

And that's Mr Faysal's daughter that you paid for?---Yeah.

And it shows the travel itinerary is Sydney Dubai, Dubai Madrid and then return?---Yes.

Departing Australia 25 June returning to Australia on 6 August?---Ah hmm.

And do you see the cost is nominated there as \$2717?---Yeah.

And also it appears some travel insurance for \$297?---Yeah.

10 If you go to the next page 618, that document is the receipt showing that you paid for the travel?---Yes.

So the airfare and the insurance?---Yeah.

Do you also recall that Mr Faysal asked you to actually pay for the activities that Amanda Faysal was going to take part in while she was in Spain? Do you have any recollection of that?---I can't recall exactly, no. I don't recall. Something (not transcribable)

20 If I could ask you to look at page 619?---Ah hmm.

Do you see that's a tax invoice from an organisation known as AIM Overseas?---Yeah.

And do you see it's a bill to Amanda Faysal?---Ah hmm.

And it refers to a final programme for the Alcala Spanish programme at a cost of \$2,520 less a deposit of \$300 and then a charge for an extra night's accommodation so there's a total due of \$2,376?---Mmm.

30 Do you see that?---Yeah.

Does that refresh your memory at all now as to - - -?---Did I, did I pay for this?

Well, I'll you to that?---Yes.

The documents suggest that you did?---Okay.

40 But do you recall now that the travel actually had something to do, not with anything to do with - I withdraw that?---Yeah, I - - -

The travel wasn't related to World Youth Day?---I haven't seen this, I'm, I'm sorry, I have not, maybe he's asking me to pay, whatever he asked me to pay I would pay it usually.

Well - - -?---I did not, I did not think about it at that time, he said pay this and pay this and would have, I think would have asked me for this, yeah.

Can I ask you to go ahead to page 620?---Yes.

And do you see a receipt from AIM Overseas?---Yes.

And it's a receipt for a payment of \$2,200?---Yes.

And it's got, there's an invoice number there of 1114?---Ah hmm.

10 And an invoice date?---Ah hmm.

Of 11 March, 2011?---Ah hmm.

Can I ask you to go to the next page?---Ah hmm.

Do you see it's a document from Bendigo Bank - - -?---Yes.

- - - which shows that there was a direct credit made by R Franjeh - - -?
---Okay.

20

- - - for \$2,200?---Mmm, mmm.

Now, is Bendigo Bank your bank?---No.

But you accept, don't you, that what that - - -?---I accepted it.

- - - shows is a direct credit - - -?---I accepted it, yes - - -

30

- - - corresponding with the - - -?--- - - - but I never thought about it, he would say do this and pay this for the (not transcribable) I think. Maybe he asked me to pay for this as well as a part of the trip, I did not look, I just paid it maybe because I, you know, I did not - as part of the trip of, you know.

Well, the only thing you knew about this trip that Amanda Faysal was to undertake was what Mr Faysal told you, that's correct, isn't it?---Yes.

So when she would go, what she would do, that was all information you got from Mr Faysal?---Yes.

40

You accept, don't you, that you must have had information from him about the particular AIM Overseas course that led you to make that payment?
---I did not know what for but he would tell me to pay I think something and I'd pay it, yeah, but I never knew that she was going to learn Spanish at all. Maybe I was paying for the trip and he said there is other things you need to pay with it, after that I paid for the trip and he said you pay, I say how and he say how, this is how you pay it and I would pay it without question because I never receive this invoices.

Well, you've told us about why it was you made the payments cash to Mr Faysal previously, I asked you about the payments that you made to his company NA & CW Investments?---Yes.

And I've asked you about the other travel you provided?---Yes.

When he asked for you to pay for his daughter Amanda to go to this, on this trip to Spain or to sponsor her, how you want to describe it - - -?---Yes.

10

- - - why did you pay?---Because he was influential and technically and he can help us later on with work.

You didn't do it because you were a family friend did you?---No, we are not family friends, we, we don't socialise.

Is it fair to say that you knew Mr Faysal outside of work?---Outside um, at, at work we establish a relationship at work, yes.

20

But I take it paying for other people's children to attend courses overseas is not something you would normally do with friends?---No.

From what you've told us the reason for paying this was to do with the work you were doing through your company at UTS?---Yes.

And your concern that that work continue?---Yes.

And your belief that Mr Faysal was a person who was in a position that could influence whether that work did or didn't continue?---Yes.

30

Now beyond the various trips I've taken you, taken you to - - - ? - - - Yes.

- - - are you able to recall any other travel that you've paid for for Mr Faysal or his family members?---I don't recall any trip.

Now, it's correct, isn't it, that in relation to the, I'll start with the iPad, you didn't give the iPad to Mr Faysal for, as a form of indirect payment for engineering services he provided you, did you?---No.

40

Simple point is he's never provided any engineering services to your company Rega, has he?---No. No.

And, does the same hold for the travel, that you didn't provide him with the travel as a type of quid pro quo for engineering services that he was providing to your company?---No.

You made, you provided the travel to him at your cost?---Yes.

Because of your view that you wanted to maintain your relationship with him?---Yes.

For the purposes of insuring that you continued to get work from UTS?---You can say that.

10 Now, in the years that you've done work at UTS, and you've known Mr Faysal, um, have there been occasions when he would speak to you about specific jobs that were up for tender or quote at the university?---All the time.

For example, do you recall him telling you about, for instance, how you might deal with particular officials at the University of Technology or what you should say to them in respect of meetings you were having with them?--I don't recall, because predominantly I was dealing with Mr Faysal more than the others.

20 But there were other people, for instance, on tender committees or on projects that you would deal with from time to time. Do you ever remember Mr Faysal talking to you or suggesting to you that, um, you might deal with particular officials in a certain way?---Not really, I know there was a bit of rivalry between himself and, um, and the maintenance manager there. John Kraefft, was telling me there's a bit of rival between them. But nothing of importance, can you be specific?

30 Well dealing with something slightly different, do you recall him ever giving you any information about companies who were tendering for work at UTS? That is companies other than Rega?---For the same competitors, you mean, on the same jobs?

Yeah, start with competitors. Do you ever recall him telling you anything about other quotes or tenders that had been received in respect of the same jobs you were going for?---Can't remember exactly but yes, I know that, sorry. For building three and building six, when there was a tender, just pure tender, not a quote, he said there are three tenders on the job. I remember he said myself, Allerton and Automated Logic.

40 Sorry, can you just say the two other competitors again?---Yeah, two other competitors on the same building.

And sorry, but what were the names of them?---So, Rega Controls.

Yeah?---Allerton, and Automated Logic gonna be competing on the same job.

Sorry, what, he told you that you would all be quoting for the same job?---Yeah, but this was not a formation, I think, pretty much.

Did he ever give you anything else, any other information about, for instance, quotes that had been received from other companies or tenders and prices and specifications that had come in from other companies that were competing for the same work?---Can't remember, sorry, can't remember, can you - - -

10 Well, do you ever recall him talking to you, for instance, about companies that had won a, say, overall head contract role and what you might do in order to try and secure subcontract work?---Yeah, there's, maybe he, the (not transcribable) I think he said, when we were quoting for the (not transcribable) I think he said if you want the job your competitors are Allerton, make sure you win the job, this kind of talk, but this is normal talk, I don't think there's anything specific in that.

Do you recall having a telephone conversation with Mr Faysal on 12 March this year?---Yep.

20 And do you recall in the course of that telephone conversation speaking to him about a particular company TES that was tendering for work at the University?---Oh yeah, yep.

And TES is that Total Environmental Solutions?---Yes, yes.

And was that a company that had won a contract at the University?---They recently won the contract, yes.

30 Back in March 2012 was it a case where they were still putting forward a tender for the job?---Yes, yes. There was a few companies there. Ah yes, he told me they are the cheapest price on this job on this particular project.

And do you recall him also talking to you about the particular price they quoted?---Yes, I think he mentioned that, he mentioned that.

Other competitors' quotes?---They are not competitors no, no. We - - -

40 Oh no sorry, not you as a competitor but did he tell you about the price that other companies competing against TES had put in for the contract?---I believe he did. I believe he did. He might have slipped this information to me, yeah.

And do you recall him saying anything to you in the course of your telephone discussion about ways in which you might position yourself in order to get subcontract work from UTS?---Could be, yeah. Yeah, he was helping this way, yes could be, yes.

Sorry, he was helping you by providing you with information - - -?---Yes.

- - - about particular dealings with a company which had tendered for a job?---Yeah, there was four or five companies for this job, that's applying for this job and I was tendering with all of them. But we, this particular project we install the system so we pretty much, any of these companies will use our expertise most likely to do the system. So regardless of whoever wins it, it's a small project for us to be the subcontractor for them.

10 But you understood didn't you that the information that he was giving you was sensitive information about particular prices companies had put in for the purposes of tenders?---Yes, yes.

And was the nature of the discussion you had with him that you understand you were getting information that might assist you in then getting some subcontract work?---It won't assist much but it's good information to know. This information will not assist me because I'm a subcontractor for subcontractor for this company.

20 Well do you recall some discussion in the same telephone conversation - - - ?---Yes.

- - - about an organisation Waterman?---Yeah, they are consultants.

And were they involved in the same project for which TES were tendering? ---No, they are not, they are not involved with this project. (not transcribable) the consultant and (not transcribable) are involved in this particular project.

30 Well in this conversation do you recall Mr Faysal saying something to the effect that he would tell Watermans – I'll withdraw that. That he would get Waterman because Waterman would do as he says. Do you remember him saying something like that?---Yeah, yeah. Yes.

And what did you understand that to mean? Do what as he says?---If he get Waterman they'll do whatever he said. He can use, maybe help use our control system.

So by getting Waterman in he might be able to influence - - -?---Maybe he was - - -

40 - - - the process so that they could use your systems?---Could be. That's what I, yeah.

Is that what you understood him to mean?---Yes, yes.

And do you recall him saying that he would tell Waterman and he would put in a specification the way he wanted it?---Yes.

And do you remember you saying to him, well excellent, put us in and maybe I'll make some money out of this project?---Yeah.

So your understanding from that conversation was that Mr Faysal was proposing that he would try and ensure Waterman were used on the project and in due course they could be used in order to make sure that you got some work from the project?---Yeah, yeah.

10 And I take it you were happy with that suggestion of Mr Faysal that that's what he would do?---I assume so, yes.

Do you remember him saying, "I don't want to name Rega by name I want to play it like we played Broadway building, very quietly and secretly, because Ramsey, as soon as they see your name the knives and axe will come out and will come at your head"?---Could be, yes, yes, I assume that, yes.

20 Do you recall having similar conversations to this about a project in relation to the Broadway building?---Yes, yes. He was very influential.

That is that Mr Faysal would say to you he would try and ensure that companies were used on the project - - -?---Yes.

- - - that in due course would be prepared to use you and your company?
---Yes.

30 At this instance I'd ask that a particular excerpt of a call being played. For the benefits of the parties if I could tender a transcript, the conversation - I withdraw that. Mr Franjieh, the conversation you have in this occasion was in Arabic wasn't it?---Could be, could in Arabic, could be in English, yes.

I'll tender a transcript translated into English. They'll be provided the parties and I'd ask that the particular conversation be played.

MR STITZ: Commissioner, would you just excuse me from the bar table for one moment?

ASSISTANT COMMISSIONER: Certainly.

40 MR DOWNING: Thank you. Commissioner, we appear to have a slight technical problem. Could we have a short adjournment.

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: We'll try and have that attended to.

ASSISTANT COMMISSIONER: Yes. We will adjourn.

MR DOWNING: Thank you.

SHORT ADJOURNMENT

[3.21pm]

ASSISTANT COMMISSIONER: Thank you. Please be seated.

10 MR DOWNING: Thank you, Commissioner, apologies for the delay.

ASSISTANT COMMISSIONER: It's all right.

MR DOWNING: I, I'll now tender the transcript of the intercept of, intercepted telecommunication of 12 March 2012 at 5.26.53 seconds.

ASSISTANT COMMISSIONER: Yes. Well that will be Exhibit 6.

20 **#EXHIBIT 6 - EXTRACT TRANSCRIPT OF INTERCEPTED TELECOMMUNICATION G00283_00_00 12/03/2012 17:26:53 FRANJIEH/FAYSAL**

MR DOWNING: Commissioner, I'll hand up that document. There are two extracts from that call that we'll be going to. This is the first of those extracts, we'll play that now. There will be a second extract in respect of which we are going to see copies of the relevant documents and we'll distribute those.

30 ASSISTANT COMMISSIONER: That's the same as the one I've got.

MR DOWNING: I wasn't sure if it'd been already handed up. If we could just have that played, thank you.

EXCERPT OF TAPED CONVERSATION PLAYED

[3.47pm]

40 MR DOWNING: Commissioner, I might just asked that that be paused. I had intended that the one that occurs early during the conversation be played, that's actually the second one in respect which we haven't yet distributed the papers so I'm sorry if that's confused people trying to follow it. I'll ask if we can go back to the transcript that relates just to the two page document that has been tendered.

Now, Mr Franjieh, you heard that telephone conversation?---Yes.

And you have a copy of the - - -?---Yes.

- - - green transcript document in front of you?---Yes.

Having heard that - - -?---Sure.

- - - recording conversation accept that that's a conversation between you and Mr Faysal?---Yes.

10 And do you accept that it was a conversation you had by telephone on 12 March, 2012?---Yes, yes.

And do you accept that what's recorded in the transcript, allowing for some lack of clarity at points is an accurate summary or accurate transcription of the conversation that you had with Mr Faysal?---Yes.

20 And I asked you some questions before about have a discussion with Mr Faysal on that day in relation to a quote that had been received from TES and that's one of the things you discussed in that conversation?---This conversation referred to a project that UTS put forward and there was a lot of companies are bidding for it and he was - - -

Sorry, sorry, I'll just stop you there. A job that who had put forward, UTS? ---UTS and there was a few people who is tendering on the, for this project.

And TES was one of them?---TES was one of them and there was other companies and based on this Nabil was giving me, gave me the prices for these, the prices for these companies, what the tender value of each one.

30 Now, that's information that wasn't publicly known was it?---No.

So he was providing you with information that he was aware of in relation to prices put forward by TES and its competitors?---Yes.

In the context of you hoping to do some work in respect of this project?---I was going to do the work because they all use my price on this job but he was feeding me some information on this project, what are the prices of the subcontractor or the contractor that's applied for the job, yes.

40 And one of the things he said at the end of that discussion was that, just reading from the last couple of lines - - -?---Yes.

- - - now in the end, John Kraefft, he was someone that was, you understood worked at the University?---Yeah, he's the one who I think at that time put this tender in, he was responsible for this tender and the tender obviously, and Nabil's, what, what he was telling me was going to be over budget.

Well, putting aside what he specifically said personally about Mr Kraefft, he did say at the end of that conversation that what's important is that you get the order?---Yeah.

So the nature of your discussion was one in which he was indicating to you that he was keen that you would get the order - - -?---Yes.

- - - in respect of this particular project?---Yes.

10 And giving you information about prices - - -?---Yes.

- - - that had been submitted by people in a secretive tender process?
---That's right.

Now, if I could ask - well, before I do that if we could distribute the second part of the intercepted telecommunication, I'll tender it and have it distributed to the parties. It's part of the same telephone call, Commissioner, but just a later part in it. If I could tender that.

20 ASSISTANT COMMISSIONER: Yes. The second except from the telephone call will be Exhibit 7.

#EXHIBIT 7 - SECOND EXTRACT FROM TELEPHONE CALL

MR STITZ: Commissioner, might I again be excused from the bar table for a moment?

30 ASSISTANT COMMISSIONER: Yes, you may.

MR STITZ: Thank you, Commissioner.

EXCERPT OF TAPED CONVERSATION PLAYED [3.55pm]

MR DOWNING: Mr Franjieh, having heard that conversation - - -?---Yes.

40 - - - and also seeing the transcript - - -?---Mmm.

- - - do you accept that that's also part of the same telephone conversation you had with Mr Faysal on 12 March?---Yes.

And do you recall I asked you some questions before in relation to a particular discussion about Waterman?---Yes.

Could you tell us having heard the conversation now - - -?---Yes.

- - - if it refreshes your memory what specifically Mr Faysal was suggesting to you about Waterman?--He suggesting he's influential and he can use Waterman as a consultant and Waterman can, will listen to him whatever he ask them to do. He will ask them and say to put Rega in the specification and we might be able to get the job.

So he's indicating that he could do that, that he could assist - - -?---Yes.

10 - - - you by insuring that Waterman were selected and Waterman would then do what he told them in affect that is to put you down?---That's what he's saying, yes.

As the company to provide the - - -?---Control.

- - - control panels?---Yes.

20 Thank you. That's the end of the evidence in relation to the telephone intercepts. Can I just and I know we're at 4 o'clock I have perhaps, it might take five or 10 minutes longer, it might be more time efficient if we actually return in the morning and make sure I don't leave anything out.

ASSISTANT COMMISSIONER: Yes. Because I assume there will be at least some cross-examination of this - - -

MR DOWNING: I've been told by my, my friend Mr Stitz that he does wish to have the evening in order to get some instructions about matters.

30 ASSISTANT COMMISSIONER: Yes.

MR DOWNING: Can I ask at this point there is a, an order made under section 112 of the Act in respect of Mr Faysal's compulsory examination, could I ask if that be varied only at this stage in relation to the release of the transcript of that compulsory examination to Mr Stitz. At a time when Mr Faysal gives evidence it may well be that I'll tender it and we can seek a more general variation of that order but at this stage in fairness to Mr Stitz could I ask that it be varied so that he could have access to it.

40 ASSISTANT COMMISSIONER: Do you want him to have access to it now?

MR DOWNING: I think in fairness given the matters that are likely to be raised with Mr Franjeh it would be preferable.

ASSISTANT COMMISSIONER: Yes, all right. I'll vary the non publication order in respect of the compulsory examination of Mr Faysal to allow publication to Mr Stitz and we will adjourn at this stage until 10 o'clock tomorrow.

**THE NON PUBLICATION ORDER IN RESPECT OF THE
COMPULSORY EXAMINATION OF MR FAYSAL IS VARIED TO
ALLOW PUBLICATION TO MR STITZ**

**AT 4.01 PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.01pm]**

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