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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION STARK

E08/0253

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY, 25 SEPTEMBER, 2012

AT 2.05PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes, Mr Downing.

MR DOWNING: In view of a couple of questions I put to Mr Hood just before the adjournment in relation to evidence he'd given at the compulsory examination I do intend to tender that transcript of the compulsory examination, Commissioner, so if I could do that at this point. Two copies I'll hand up and we'll distribute copies to the parties.

ASSISTANT COMMISSIONER: Yes. Mr Hood's compulsory examination transcript from 6 August, 2012, will be Exhibit 14 and I remove the non-publication order in respect of it.

**THE NON-PUBLICATION ORDER IN RESPECT OF MR HOOD'S COMPULSORY EXAMINATION IS REMOVED**

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**#EXHIBIT 14 - COMPULSORY EXAMINATION TRANSCRIPT OF WAYNE HOOD DATED 6 AUGUST 2012**

MR DOWNING: Mr Hood, you recall just before the lunch break I was asking you some questions about the particular invoice at page 788. That's the 4 August, 2007 one in respect of the physics building?---Yes, yes.

30 And I think – I want to make sure I understand your evidence correctly. Before lunch I think you said that Coral had done the air conditioning work on that job and Sydney Uni weren't happy with it. Is that correct?---There was something wrong about it, yeah, something wrong I think.

And they spoke to you?---Yeah.

And that you then – do you say it was at that point that you organised for Mr Faysal to come in and do some engineering design and documentation on it? ---Yeah, I think so, at that point, yeah.

40

Can I ask you, was Coral Air someone that you had organised to subcontract or was that someone that was organised through Sydney University? ---I think, I think it was someone, I think it was someone organised through Sydney University.

Well, can I ask you then, why would – assume for the sake of argument that Coral had put in, you said the particular scope of work for the- -?---Yeah, yeah.

- - -air conditioning and this, it was in the basement of the building it was put in?---Yeah, yeah.

And not a completely new system where there had been none before- - -?  
---Yeah, yeah.

- - -but to replace the system?---Yeah, yeah.

10 And you say that doing the best you can to recall, that Coral Air was the contractor that was to do that work and it was organised through Sydney University?---They were my contractors.

Sorry?---They were, they were my contractors.

I thought that you just said you thought they were organised through Sydney University?---No, Sydney University just would have ah, given me their telephone number to ring them and get them to come out and price the job and everything.

20

Sorry, so- - -?---So I'm the contractor of it.

So you had the contract for that job?---Yeah.

And that involved you say amongst other things, well, I'll go back a step. You agreed with me before that it involved effectively building three labs next to each other in the basement?---Something like that.

30 And do you say that that involved, as part of the scope of your contract, the air conditioning work?---Ah, yeah, as a part of my contract.

Yep. And was it you who then organised for Coral, you say, to do the air conditioning work?---Yes, yeah.

So I want to understand this. Do you say that Mr Faysal's involvement happened at the point before any duct work had been done or after?  
---Ah, I think from what I can recollect it might have been after, might have been.

40 But you told us in your earlier evidence- - -?---Yeah.

- - -that Mr Faysal actually organised the people to come and do the duct work, that is he organised the labour, he organised the materials and in effect supervised the installation of the duct work?---Oh, some of it, some of it, yeah, done some alterations to it, yeah.

But- - -?---Yeah.

Are you saying he did that before Coral Air did some work or at the same time or after?---I can't recollect, I can't recollect it exactly, I can't recollect it exactly.

You seem, looking at page 788 - - -?---Yeah.

- - - what Mr Faysal's invoice to you refers to is doing mechanical engineering design and documentation for the ventilation system in the basement?---Yeah.

10

It doesn't refer to him actually doing the duct work at all, does it?---No, no, no, it doesn't say it, no.

It doesn't refer to him, on its face, to him coming in and getting a brief to try and refit something that had just been done by Coral Air or to fix a problem for Coral?---No, it, admittedly it doesn't say that. No.

Can I ask you wouldn't the logical thing for you to have done if Sydney University had contacted you and said there's a problem with Coral Air's work is for you to get Coral Air back in to fix it?---I'd used Coral Air once or twice before and I just found that they're just no good to work with.

20

So do you say that Coral Air in this instance was a contractor, subcontractor that you chose or that was forced onto you by Sydney University?---It was forced onto me by Sydney University.

They specified you had to use Coral Air?---I'm, I think they did, I think they did, but I'm pretty sure, I'm pretty sure they forced them onto me, yeah.

30 Is it possible, thinking back, that it was in fact you who organised them as a subcontractor?---It's possible, it's possible. Yeah.

Despite the fact that you thought they were terrible?---Sydney University seems to favour Coral Air.

Is it possible that Sydney University just organised for Coral Air independent of your contract to actually do the air conditioning work?---I don't think they normally want to do that, no.

40 Well thinking about this job, though - - -?---Yeah, I, I don't think. I don't think they would have, no, no.

But can I ask you why did you bring in Mr Faysal, a mechanical engineer, in respect of a problem with the air conditioning system?---To get it, he does air conditioning and all that, he does all that. He does it through UTS, too.

But the engineering for it?---Yeah, yeah, yeah.

Ordinarily, you've obviously subcontracted work on building jobs for many years?---Yes.

And is it the case that ordinarily when someone does work, whether it's an air conditioning contract or an electrician, they've got to effectively provide a warranty in respect of their work?---Yeah, they, they normally do, yeah. Put it this way, some of the bigger companies do, most of the smaller ones don't.

10 But wouldn't it have been the case that if in this case, in this job Coral Air had done work which wasn't up to scratch it would have been up to them to come and fix it?---Sometimes the universities, when you do a job like that, to cut a lot of messing around and a lot of hassles sometimes they get there and they just say look that's no good, that's no good, get someone in to fix it. And, and we'll just do it as a variation.

But the university had already, presumably, agreed on a price for you to do the work - - -?---Yes, that's correct.

20 - - - that involved the air conditioning?---Yeah, that's correct. Yeah. Yeah.

Now getting someone like Mr Faysal in meant having to get a new person in and having to pay them?---Yeah, but I think probably it was going to get it done right instead of letting Coral Air play around with it any further.

And do you say that it was after that problem of Coral Air's work that Mr Faysal then came in and organised the work himself with his own materials and subcontractors?---Yeah, I think so, from what I can recollect, yeah.

30 Okay?---Yeah.

Can I suggest to you, Mr Hood, that that's not an honest account of what occurred?---No.

Do you agree or disagree?---Well it's not what I recollect, no.

Can I suggest to you that Mr Faysal didn't organise any tradesmen to come in and do air conditioning work, nor did he organise any materials?---Well I think he did. I think he did. Yeah.

40

And you say that that was before or after the problem with Coral?---Well I think it was after the problem with Coral.

So they did the work?---Yeah.

And he then organised for it - - -?---We were, we were still probably working on the site anyway because that had been halfway through.

But from your point of view, engaging Mr, I withdraw that. You agreed on a price with the university for this job, hadn't you?---Yes.

So, Coral have created a problem for you in terms of the work they've done?---Yeah.

10 So do you say that you now pay Mr Faysal and you take the loss yourself despite the fact it was Coral's poor workmanship that was the problem?---  
No, sometimes on those jobs, as I was saying, you speak to the project  
manager about it and sometimes they don't want to go back to Coral and  
cause trouble, and they just sort of, a little bit of mediation there, and they'll  
say, well, you know, we can do it through, you're doing something over  
here, do it through a variation, just there and get it fixed.

But it was, this was money you actually paid to Mr Faysal?---What's that?

This invoice that I've taken you to - - -?---Yeah.

20 - - - the 4 August, '07 - - -?---Yeah, yeah.

- - - this is money you paid - - -?---Yeah, yeah.

- - - and it came out of your own organisation, that is your building company's budget?---Yeah, yeah, yeah, yeah, yeah.

So you're in effect taking the loss for Coral's poor work?---No, I would, no, no, I would have, I would have charged Sydney Uni also to fix it up.

30 ASSISTANT COMMISSIONER: Are you saying you negotiated a variation with the Uni to include this extra cost?---Yeah, probably, yeah.

So there would have been some written variation to the contract?---There possibly could have been, maybe, yeah.

Well, if there isn't any such variation then you bore the cost yourself?  
---Oh, I didn't, I wouldn't have paid for I don't think.

Well, you did pay for it?---I did pay for it, yeah, to pay him, yeah.

40 So you think you, you got a variation from the Uni and made them pay the extra?---They would have agreed upon it, yeah.

Who? Who did you talk to about this air conditioning?---Oh, I don't remember.

Who told you there was a problem with it?---The University.

Well, you must have some idea. It's no good saying the University?---Well, I think it must have been the project manager on the job.

The project manager told you that the air conditioning needed to be fixed?  
---Yeah.

You don't know his name?---I, I think it was Gavin Dark. I, I think.

Gavin Dunn?---Yeah, Dark.

10

Dark?---Dark, yeah.

Yes, Mr Downing.

MR DOWNING: To your recollection was it you who was paying Coral Air for their work on this job or was that the University paying?---I think it was me. I think, I think it was me, yeah.

20

Can I - I've already put to you that what you've told us about the particular work involving Mr Faysal and his involvement isn't a true account, do you maintain that you have a recollection of him organising materials and organising for people to come in and do some work on the, the air conditioning system?---Yeah, he came there and he done work there, yeah, he did, he did, yeah. Yeah, he came and worked, done there, done work for me there, yeah.

30

If you're wrong about that it would suggest, wouldn't it, that you've very limited recollection of these, this particular job?---Well, I think he came there and he done the work, yes, yes.

The document at page 788 which I've taken to you already refers to him doing the mechanical engineering design and documentation?---Yeah.

So I take it there would have been drawings and design documents that you received?---There would have been something, yeah.

And were they only in relation to fixing the problem from Coral Air or were they in relation to the job generally?---I think it was just fixing the problem.

40

Mr Hood, the records from Sydney University - - -?---Yeah.

- - - in respect of this job indicate that - that is the job in the basement of the physics building - - -?---Yeah

- - - had Shelmerdines Consulting Engineers doing the mechanical engineering work?---Right.

So Sydney records, Sydney University records suggest that another entity actually according to the as built documentation provided that engineering -  
- -?---Yeah.

- - - service?---Yeah.

Are you able to explain why you would then, why you would, if there was another mechanical engineer involved why it was you got Mr Faysal in?  
---I think just to get it done quick and get out of the job. That's all.

10

Were you familiar with Shelmerdines?---Not really, no, no.

Well, if you were, if you were doing the, a tender or a quote that encompassed the ventilation or the air conditioning works - - -?---Mmm.

- - - did you have nothing to do with the people doing the engineering on the actual project?---I think they had a couple of meetings there and then that was about it.

20

That's Shelmerdines?---I don't even, I don't even recollect that name to be honest.

You see, what I'm suggesting to you is if, if there was another organisation Shelmerdines, who were the actual consulting engineers for the mechanical engineering parts of that work - - -?---Yeah.

30

- - - the logical thing if you weren't going to go to do, if you weren't going to go directly to Coral Air to fix the problem would be to speak to the, the actual consulting engineers on the project and say well, can you help us making sure that Coral Air do the right thing?---Well, I think I probably spoke to the project manager about it.

You understand that I'm suggesting to you that what you're telling us about this job isn't a truthful account?---Yeah, I understand that, yeah, yeah.

And you understand I'm putting to you - - -?---Yeah.

- - - that in fact - - -?---Yeah.

40

- - - Mr Faysal didn't provide any of the services that are referred to - - -?  
---Yeah.

- - - in this invoice?---Yeah, I understand that.

But you disagree with that?---Yeah, he done work there, yeah.

Now just returning to the question of induction, you say that you have been inducted but only once at Sydney University?---I had, that's right.

But your understanding, isn't it, that even if it's only once, if you're a tradesperson that's doing work at Sydney University - - -?---Yeah.

- - - at some point to start work you have to be inducted?---Yeah.

The records from Sydney University indicate that they have nothing, I withdraw that. The records from Sydney University contain no reference to Mr Faysal ever doing any induction - - -?---Mmm.

10

- - - or being allocated a contractor ID card - - -?---Mmm. Right. Right. Yeah.

- - - but you, you acknowledge that you needed to be inducted to do work there, don't you?---We only done it once.

Right. But - - -?---No, once was, like, when they first bought it out - - -

Right? - - - they got everything, they got everybody, all the contractors over into their main facilities building and they had a person come in there and he talked about telling everyone the safety, they showed films and then they inducted it. And as far as my knowledge or my, me, it was done once and no more.

20

ASSISTANT COMMISSIONER: Well that doesn't really make any sense, does it? What about future people? They just didn't have to do the induction because it was only done once?---Well - - -

You know that's not true?---Well - - -

30

Everybody who had to work at the uni had to do the induction, didn't they?--No. No. I - - -

So, what they just chose some people who had to do it and then after that nobody had to do it?

MR FRAZIS: Your Honour, I object. This witness can only give evidence about his knowledge, he cannot give evidence about what the procedures are at Sydney University.

40

ASSISTANT COMMISSIONER: He can be asked his knowledge of the procedures.

MR FRAZIS: His knowledge of the procedures, but - - -

ASSISTANT COMMISSIONER: I am asking him whether he is aware that any contractor who wants to do business at the Sydney Uni has to go

through an induction process. Is that your understanding?---No, no. I only done it once.

Yes, I know that?---I only done it once.

I know that?---And I have, I haven't heard of that since. I haven't heard - - -

10 So you think it was only for a certain group of people had to do it and then after that nobody had to do it?---Well sometimes the university do that, they bring out these rules and regulations.

All right, that's fine?---Yeah.

So that's what you're saying?---Yeah. Then they don't do it again.

It was done once for a certain group of contractors?---Yeah.

And then - - -?---They don't do it no more.

20 - - - just abandoned?---Yeah.

All right?---Yeah.

Thank you, Mr Downing.

30 MR DOWNING: Thank you, Commissioner. Now you've agreed with me already, I think, that in respect of this job with the physics building that there were some documents that Mr Faysal created that is design and documentation and drawings?---Right.

And did they have his name or the name of NA & CW Investments on them?---I don't recollect that, I don't recollect it.

Well they were documents that you would have provided to Sydney University, aren't they?---I would have just given it to them, yeah, yeah, yeah.

Can I ask you then to have a look at the invoice on page 789?---Mmm.

40 That's the invoice of 2 February 2008 in respect of the mechanical engineering building. You see that?---Yeah, I do. Yeah.

And it refers under the scope of work to attend to testing and commissioning of the fire system - - -?---Yeah.

- - - the above site including fire certification?---Yeah.

And you've already agreed with me you added the word for prospective tendering purposes?---Yeah, yeah.

Now I want you to do your best thinking back to this particular job. Do you remember the engineering building?---I know the engineering buildings, yeah.

Do you remember this particular job? What did it involve in terms of WJ Hood and Company?---Right.

10

Or Sons, sorry, WJ Hood and Sons, wasn't it?---Yeah, yeah.

What was the job that you were there to do on this building?---I think we worked out a, I think it was a design and construct project where it was the fire system and fire, like, put fire certification on it, and I thought there was a bit of ventilation in it too, but I have trouble recollecting that one.

Well in fairness to you there are - - -?---Yeah.

20

- - - two invoices that relate to that building?---Right.

And I'll come to the next one, there's one later in time that I'll come to the next one, there's one later in time that I'll come to in a moment?---Right.

But just dealing with this first one. So do you recall that there were a couple of different aspects of work you did on this building?---(No Audible Reply)

Do you recall that you did a couple of different things on this building? ---Yeah, I probably did, yeah, yeah.

30

Well, thinking about the first one you did in time and noting that this is an invoice from Mr Faysal of 2 February, 2008, and seeing what it refers to in terms of work, are you able to describe what your, your building company did?---In '08? No, I can't remember, I can't remember.

Are you able to say how long you were working on that building for? ---Oh, I couldn't, it's '08, it's nearly, it's nearly five to six years ago. I just can't remember. Gee.

40

Well, do you see the words that Mr Faysal has- - -?---Yeah.

- - -put into the scope of work- - -?---Right.

- - -suggest that he physically attended the premises?---Right.

Would you agree with that?---I don't know, I don't know.

Well, I'd ask you just to read the scope of work?---Yeah, okay.

“Attend to testing and commissioning of the fire system- -?---Right.

- - -for the above site, including fire certification?”---Right, right.

Reading that, does that suggest that he actually attended the premises and commissioned the fire system?---It sounds like it when, when you read it.

And that he did fire certification?---Yeah, sounds like it.

10

So does that trigger your memory at all in terms of- -?---Well- - -

- - -him doing particular works?---No, it doesn't, it doesn't. I've done thousands of jobs since then and I'm racking my brain over these anyway.

Well, do you see, I've taken you to the words that you've written on it, “For prospective tendering purposes?”---Yeah, yeah.

20

Can I suggest to you that those words when read against what Mr Faysal has described in the scope of works- -?---Mmm.

- - -don't make any sense?---No, no.

Well- -?---I don't know why I wrote it.

Do you disagree with me or- -?---Well, I, no, I'm not disagreeing anything, I just don't recollect why I wrote it and I just don't recollect that job. That's it.

30

Well, the words you've written there, can I suggest, are intended to convey that whatever Mr Faysal did, it was only for the purposes of you putting together a tender?---That's what I've been thinking, yeah, that's what I was thinking when I looked at it.

But it's, I suggest to you that when you read what Mr Faysal's included under- -?---I- - -

- - -the scope of works that's not- -?---I don't- - -

40

- - -what he's describe at all, is it?---I don't think that the actual invoice is all that correct because the- - -

That is what Mr Faysal has described?---The thing is, what really matters is the amount of money at the bottom what I pay.

Well, what were you paying him for on this invoice?---Well, he would have verbally told me what he was going to do and that's what I would have paid him, but I can't recollect what was actually done.

Well, it wouldn't just be a case of him telling you what he was going to do, you would have- -?---No, when I read- - -

- - - had to have briefed him about what the job was?---But I don't recollect back that far. When I pay an invoice I normally go straight down to the figure and say, oh, yeah, well, that's about right, I might have it written on a, on a notepad somewhere, that's, or in my quote book or something like that, that's what I had down, but as far as the actual description of the job, to me it's, I'm not breezing over it and saying it's insignificant but what I'm saying is, the final figure was what really counts to me as the person paying it.

Well, Mr Hood, this is an invoice from February 2008, I accept it's not yesterday?---No.

But we're not talking about 10 years ago?---No, we're not talking 10 years ago, but we're talking a lot of jobs ago.

20 Well, it does give you some hint though in that it describes the particular building and you've told me you remember the engineering building- - -? ---Yeah.

- - -or the mechanical engineering building- - -?---Yeah.

- - -at Sydney University?---Yeah, yeah.

30 Do you have any recollection of him, that is Mr Faysal, coming along and testing and commissioning the fire system in that building?---I can't recollect it, I can't recollect it.

Do you have any recollection of him doing fire certification?---Ah, I thought he done fire certification in the physics building, I thought he done fire certification in there.

Do you recall him preparing some sort of documents in respect of the fire system or fire certification for tender purposes?---Well, that's the, I can't recollect that invoice, that's just it, I can't.

40 But you paid it?---Yeah, I paid it, yeah, but at, I paid it at the time.

Can I suggest to you that in relation to this building, that the mechanical engineering building is also known as the J13 Link Building. Does that ring any bells?---No.

Do you recall that the job you had in this building involved alterations to rooms, three rooms, 110, 111 and 112 two administration offices. Does that ring any bells?---No, not off the top of my head.

Or changes to room 127 to make it into a student lounge?---No, I don't recollect that, no.

The records from Sydney University suggest that this project account was created in February 2007 and closed in February 2008?---Right.

Well your document, doesn't it, with your, sorry, withdraw that. This invoice with your handwritten amendments to it - - -?---Yeah.

10

- - - suggest that the services that Mr Faysal was invoicing you for on 2 February involve something to do with preparing a tender?---Say that again, I - - -

Mr Faysal's invoice is dated 2 February 2008?---Yeah, what, this one here?

The one that you're looking at?---Yeah, go on, yeah.

20

And your writing on it suggests that (not transcribable) this building - - -?---Mmm.

- - - it was work for prospective tendering purposes?---Right. Right.

That's your writing, isn't it?---Right, yeah.

What I'm suggesting to you is this is an invoice dated 2 February 2008 which according to your notation refers to prospective tendering purposes?--Mmm.

30

But the records from Sydney University suggest that this account was created in February 2007 and it was closed in February 2008?---Probably different jobs, they're just probably different jobs, that's all.

Do you recall doing more than one job in this building?---I done a lot of jobs in Sydney University.

No, but I'm asking you about a particular building. You understand that don't you?---I can't, I can't recollect that, but they're probably just different jobs.

40

Do you say different jobs in the same building?---They could be, I don't know. I don't ever know the building off the top of my head, I can't remember the building.

Can I suggest to you that in respect of this job in the mechanical engineering building, it wasn't part of your scope of works to do anything to do with fire certification?---In that particular time?

In this building?---Well if that's the case then it wasn't, yeah.

Well then why would you be paying an invoice for Mr Faysal that referred to it?---But that, that, but that, that was probably, that's a different job. You're saying that that job there is that job.

Perhaps I've confused you and now I've confused myself, Mr Hood?---  
Yeah, I'm sorry.

10 What I'm suggesting to you is - - -?---Yeah.

- - - that this job, that is the mechanical engineering building job, the works you were there to do according to Sydney University in respect of that - - -?--Yeah.

- - - were only alterations to some rooms?---Okay.

And I've already described those rooms?---Okay.

20 They didn't include any fire certification?---Right, okay.

Do you accept that?---Probably, yeah, yeah, okay.

So why would you have paid an invoice for Mr Faysal that actually referred to specific work that you weren't doing on that building?---Well this one here was probably just design and construct.

30 So you would have paid an invoice for \$4900 in respect of design and construct?---Yeah, yeah.

Despite the fact that the invoice you got from Mr Faysal referred to something else?---No, that, that job over there, that one that you're speaking about would've been just a different job altogether than what this job here is. That's what it - - -

Well there's a design and construct or there's a mechanical engineering design and documentation invoice in respect of this building which I'm going to go to next?---Yeah.

40 So accept from me in April 2008 there is an invoice for that building referring to mechanical engineering design and documentation?---Yeah, yeah.

So you've paid that one invoice on that building for that purpose?---Which is this one here, that's what you're saying?

No, it's April 2008. So you have paid one for mechanical engineering - - -?--Right. Okay.

- - - and design and documentation?---Okay, go on.

What I'm asking you is - - -?---Mmm.

- - - why would you have been paying Mr Faysal for an invoice on the same building in February 2008 in respect of testing and commissioning the fire system?---Well I just don't recollect the job, I just don't.

10 If you'd received an invoice from him in relation to work on a building that you knew hadn't been done, you wouldn't pay it, would you?---Well it was probably pretty clear at the time in 2008, but sitting here at the moment I just can't recollect or remember that, what actually happened.

Is the end position that now you just can't say anything in terms of whether there was work done by Mr Faysal in respect to fire certification?---It's not that I can't. I can't remember it.

20 All right. Can I ask you then to look at page 790 which is the invoice of 24 April 2008 in respect of the same building?---Yeah.

And do you see this time it's an invoice from Mr Faysal in respect of a scope of works being mechanical engineering design and documentation for the site?---Yeah, that's right, yeah.

30 Now, do you have some recollection of him being involved in that way, that is, on this mechanical engineering building him doing mechanical engineering design and documentation work for you?---Yeah, he done a design and construct again on it.

When you say again, do you mean, what do you mean?---Well, we done it before.

On the same building?---Yeah, in mechanical engineering, the mechanical engineering building covers like acres and acres and acres, there's quite a lot of buildings involved.

40 Do you say that you paid him previously for a mechanical engineering design and documentation on this building?---Yeah.

When was that?---Oh, I don't know. It was one of these invoices.

Well, the only other one I've shown you which relates to - - -?---Yeah, yeah.

- - - this particular building is the one I've just shown you in relation - 2 February, 2008?---Right. Well, it was probably that one.

So you think that might have been one that you paid him for design and construct even though it referred to testing of the fire system and doing fire specification?---Possibly, yeah, possibly, yeah.

10 How would you know you're getting value for money from Mr Faysal in respect of the work he was doing if you're getting invoices from him which don't even describe in any way accurately what he was there to do?---Well, I'm not a mechanical engineer, I'm a builder and I was asked to tender on it, I didn't know anyone else at the time and I just thought it was reasonable value for what he was doing, that's all.

Well, let's go back then to the invoice for 24 April, 2008 at page 790?  
---Mmm.

Did you also think that, that quote from him or - sorry, I withdraw that, that invoice of 7,940 for the mechanical engineering design documentation - - -?  
---Yeah, yeah.

20 - - - did you think that was a fair charge?---I think it probably was, yeah.

Now, it's the case isn't it that before you got Mr Faysal involved to do this type of mechanical engineering work you would have already tendered for and obtained the contract for that work?---No, no, no, I didn't obtain any contract for that work.

30 Well - - -?---It was, it's - a design and construct is that you offer, offer them a price but you supply all the documents and everything to prove that you can do the job and then it's, it's like, it's your gamble, you do the work, you offer them the price and if they take it then okay, you're like the only one pricing it and then they give you an answer to say yes, okay, it's within our budget, you can go ahead and do it. So that's it. But it didn't happen, I didn't win them.

Oh, so this particular job you didn't win?---I didn't win them, no, no, I didn't win them.

So any of them?---In a couple of those I didn't win.

40 So do you say that you didn't have a contract for this one?---No.

We're looking at the - - -?---No, no, no. I didn't.

So you paid Mr Faysal \$7,940 to help you prepare the - - -?---Yeah, yeah.

- - - the documents that would go to the University for the tender?---Yeah, that's right, yeah. I had my son at home pricing jobs and it's not free.

Well, can you tell me what did this job involve? What, the document from Mr Faysal refers to a mechanical engineering building but what was the work in, what did it entail?---Well, I don't remember, I don't remember what it entailed.

For instance, are you able to say whether it involved ducting or air conditioning or - - -?---Yeah, it - well, mechanical engineering design and documentation I'm guessing, I'm guessing it was probably a ventilation system through it. I'm guessing.

10

And do you say, what he provided a mechanical engineering design for the ventilation system?---I guess like a scope of works and then also quoted the job. He worked the price out for it, the tender.

And your notation at the bottom "for quotation purposes for prospective" your recollection - I withdraw that. Do you say those words reflect the fact that that's what this was for, you were paying him to help you?---That's what it would have been for, yeah, yeah, yeah.

20

Do you believe that paying \$7,940 was value for money for what he was doing for you?---Oh, I think so.

Do you have any idea of what the, the job you were looking at trying to obtain involved?---Not, not - - -

What sort of money it involved for your business?---Not here I can't, I can't recollect it here, no, I can't.

30

Mr Hood, the information from Mr Duffy at Sydney University is to the effect that this job in respect of this building was created in February 2007 and closed in February 2008?---Mmm, what's that? Say that again.

That the job in respect of this building- - -?---Yeah.

- - -was opened in or created in February 2007 and closed in February 2008? ---Right.

40

Are you able to say why you were paying an invoice for Mr Faysal on 24 April, 2008 in respect of that building?---Oh, I can't remember.

Do you have any recollection of whether this invoice came to you at the time he did the work or sometime later?---No, I can't recollect that, I can't recollect.

But doing your best you believe that it was a design and- - -?---Yeah, yeah.

It was a design and documentation- - -?---Yeah.

- - -in respect of air conditioning. Is that right?---Well, I guess it – I think it – look, it could have been air conditioning, it could have been ventilation, I’m not quite sure.

They’re opposite sides of the same coin really, aren’t they, ventilation systems and air conditioning systems?---They’re fairly close, fairly close, yeah.

10 The records from Sydney University indicate in respect of this job that they engaged Coral Air Conditioning to do the works directly?---Right.

That is not through you, but Coral Air was directly engaged by Sydney University on this building?---Right.

Do you say that you had Mr Faysal prepare, you paid him \$7,940- - -? ---Mmm, mmm.

20 - - -to quote for a job and you didn’t ultimately get it?---No, I didn’t get it, no.

So you recall Coral Air Conditioning getting it?---So I what?

Do you recall that Coral Air Conditioning got the job?---No, I don’t.

Don’t have any recollection?---No, no, I have no recollection of Coral Air doing anything there, no, I don’t.

30 I take it there have been plenty of jobs in the course of your building career where you’ve had to quote for works that involved as part of it air conditioning works?---Mmm.

Is that right?---Yeah, yeah.

And in the ordinary course would you go and speak to an air conditioning contractor to get them to give you a price for that?---Sometimes I do, yeah.

Well, you’ve told me I think in your evidence- - -?---Yeah.

40 - - -and tell me if this is not right- - -?---Yeah.

- - -that the only mechanical engineer you can actually recall retaining to give you input into jobs that you were going to tender or quote for- - -? ---Mmm.

- - -was Mr Faysal?---Yeah.

So it follows, doesn’t it, that there’s been no other mechanical engineer, the only other persons you must have spoken to about helping you put together

a price for a job that involved some air conditioning work were air conditioning companies?---Mmm.

Is that right?---Well, he's the type of person that could only do specifications and documentations for it and back it up.

But part of what – tell me if this is correct. Part of what you're saying he did on this job was to help you come up with a price?---Yeah, yeah.

10     Wouldn't that normally be something, that is coming up with the quote and the specifications for the air conditioning, you would do by going to an air conditioning contractor?---Ah, no, not really, no, no. In a design and construct you've got to supply the plans and the specifications as if you're going to do the job, as if you've won it and it's yours ready to go. When, if you go to an air conditioning contractor, they'll just walk onto the job, take a look at it and say, yeah, I reckon you're up for X amount of money, but that's the end of the story, you don't get nothing else.

20     But tell me if this is the case, that in previous jobs where you haven't used Mr Faysal to help you put together a quote, there have been plenty of jobs you've quoted for that involved an air conditioning component, haven't there?---I had, yes, but in these instances, these come from theses, I think they were private consultants and I wasn't really involved in any mechanical, mechanical engineering design or anything but when they contacted me and they asked me I didn't want to say no because they take you off the tender list and I didn't want that to happen.

30     Sorry, you said this came from private consultants. What did you mean by private- - -?---Well, I think it came from private consultants also. It's either private consultants or from the architects from Sydney Uni, so it's either one, I don't remember.

What, that asked you to tender for the job?---Yeah, to have a look at it, yeah, yeah.

Can you think of any other jobs besides this one where you have paid, would have paid something almost approaching \$8,000- - -?---Mmm.

40     - - -for someone to give you mechanical engineering or any type of engineering input where you were putting in a tender and didn't get the job?---No, no. It was something that I tried a few times and it didn't work, I didn't win, and I didn't do it no more. I thought it would work out because he was very handy to have.

Mr Hood, I've asked you this already but I'll put it to you in respect of all of these invoices from Sydney University- - -?---Yeah, yeah.

- - -that came, or in respect of work at Sydney University- - -?---Yeah.

- - -from NA & CW Investments?---Yeah.

I'm suggesting to you that they were not invoices that reflected any genuine work that Mr Faysal did. Do you agree or disagree?---I disagree, he did do work.

10 I'm suggesting to you that Mr Faysal asked you for money and that these invoices were concocted as means of trying to cover the payments after the event?---No, he didn't ask me for money, no, he didn't.

Can I ask if, in 2012 you obviously became aware that the Independent Commission Against Corruption was investigating Mr Faysal's conduct?  
---Yeah, I heard something about it, yeah.

And he - - -?---Just excuse me for one second.

I'm sorry?---No, you're all right. Sorry about that, I have to - - -

20 Just before I - - -?---Yeah.

- - - go over the subject matter I was about to cover, I asked you whether Mr Faysal had ever asked you for money?---Yeah.

Did you ever offer him any money?---No.

And you know what I mean by offering money? Not for a job but offering money - - -?---I know what you mean.

30 - - - in order to keep favour with him because of his role at UTS?---I know exactly what you mean. No.

You deny that that ever occurred?---Never.

Now do you recall earlier this year you were asked to produce some documents to the Commission in respect of Mr Faysal or the investigation into Mr Faysal?---Mmm. Yeah, yeah, yeah.

40 Remember that?---Yeah.

So you became aware that there was an investigation into it?---Yeah. Yeah.

And you came in on 6 August 2012 and you gave some evidence in a closed session on that day to the Commission?---Yeah.

Can I ask you since you became aware that Mr Faysal was being investigated by the Commission, have you contacted him at all?---I spoke to

him a couple of times, we had coffee a couple of times about a couple of months ago.

And what did you speak to him about?---I've been thinking about trying to start a business up, a small business in the Middle East, in Dubai, and I was asking him about different questions about it, if he could help me out with information. I've retired and I've been retired for about eight months now, and I've been thinking about doing something like that.

10 And is the reason that you spoke to Mr Faysal is you understood that he had some business interest in the Middle East?---No. Because he'd worked there. He had worked there. Are you saying that he had business already there?

Well I'm asking you. I thought that you told me that - - -?---No, no, he used to - - -

- - - in the early days of your contact with him - - -?---He used to, he told me that he used to work there and he had his own business there.

20

Right. Now do you recall on the day you came and gave evidence at the Commission, you telephoned him?---I don't recollect. I don't, I don't recollect.

Do you recall after you finished giving your evidence on that day, you telephoned Mr Faysal?---I, I don't remember, I don't recollect that.

Well I'm suggesting to you that you did, you telephoned him on that day?---Okay, all right, I don't recollect. Yes.

30

Can you think why you might have wanted to telephone Mr Faysal and speak to him on the day you'd given evidence at the Commission?---No, I don't. I don't.

Now I'll ask that the telephone conversation be played?---Yeah.

There is a transcript which I'll distribute, I'll tender and distribute.

40

**TELEPHONE RECORDING PLAYED**

**[12.49pm]**

MR DOWNING: Just having heard that conversation - - -?  
---Yeah, yeah.

- - - well, before I move on and ask questions I'll tender the, the transcript, Commissioner.

ASSISTANT COMMISSIONER: Yes, the transcript of that conversation will be Exhibit 15.

**#EXHIBIT 15 - TRANSCRIPT OF INTERCEPTED  
TELECOMMUNICATION G00289\_00\_00 06/08/2012 19:55:56  
HOOD/FAYSAL**

10 MR DOWNING: And, Commissioner, before I forget and I'm grateful to Mr Wong for reminding me, can I tender the audio both in respect of the phone calls that we played yesterday or the two excerpts from the one phone call involving Mr Franjeh and Mr Faysal but also now the audio of this conversation which I'm going to ask Mr Hood about in a moment.

ASSISTANT COMMISSIONER: The audio recordings of the Franjeh conversations will be Exhibit 16 and the audio recording of the Hood conversation will be Exhibit 17.

20

**#EXHIBIT 16 - AUDIO RECORDING OF FRANJIEH/FAYSAL  
TELEPHONE CONVERSATION G00283\_00\_00 12/03/2012 17:26:53**

**#EXHIBIT 17 - AUDIO RECORDING OF HOOD/FAYSAL  
TELEPHONE CONVERSATION G00289\_00\_00 06/08/2012 19:55:56**

30 MR DOWNING: Thank you, Commissioner.

Now, Mr Hood, having heard that do you - - -?---Yeah.

- - - recall making that phone call?---I don't recall it but it sounds like me, yeah.

You accept that it was you?---It sounds like me, yeah.

40 Now, you were calling Mr Faysal as I've already suggested to you on the day that you came and gave evidence?---Right, right.

In the phone call you said that you wanted to meet with him tomorrow to ask him about the work in the Middle East that you'd been - - -?---Yeah, yeah, yeah.

- - - talking about there. Can I ask you, what specifically was the work in the Middle East that you were talking about?---I've been thinking about a small building business over there, that's all.

And you'd been talking to him about that beforehand had you?---A little bit, yeah, a little bit, yeah.

Can I suggest to you that the reason you wanted to speak to Mr Faysal was that you had come and give evidence here, come and given evidence at the Commission and you wanted to talk to him about making sure your stories fitted together?---No, that wasn't it. That wasn't it.

You disagree?---No, that's not correct, that's not correct.

10

There wasn't any discussion, for instance, when you met about the invoices and trying to make sure that the, your stories about the invoices and the payments fit together?---No, no, no.

Now, Mr Hood, you, I've asked you before and you've told me about, that you've been doing work for UTS for some period of time?---Yeah, yeah.

Can I ask you, in the time that you've done work for UTS - - -?---Yeah.

20

- - - whether you had any information from anyone at UTS about the University's policies or procedures in respect of conflict of interest? ---Sorry, can you say that again, sorry?

Sure. In the time that you were doing work at UTS did you ever receive any information from anyone at the University in your capacity as a contractor about the University's policies or procedures in relation to matters like conflict of interest?---No, no.

30

Did you ever receive any information from anyone at the University about its procurement requirements?---No.

And you know what I mean by procurement, the way in which they would purchase goods or services from contractors like yourself?---Yeah, no, no.

Did you ever receive any information from anyone at the University about whether it was acceptable or not acceptable for University staff to receive gifts or benefits?---No, I've never heard that.

40

And did you ever receive any information from anyone at the University about whether it was acceptable for staff at the University to perform outside work?---I never heard that, no, no.

Commissioner, if you just excuse me for a moment. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Does anyone wish to cross-examine this witness or examine him?

MR STITZ: I do, your Honour. If you just pardon me one moment while I speak to Counsel Assisting.

Mr Hood, my name is Stitz. I represent Mr Faysal. Do you understand that?---Yes.

10 Okay. Now just in relation to these questions that you're being asked about the tender process, is it the case, Mr Hood, that I think on a particular day of the week on a page in the Sydney Morning Herald, the government often calls for tenders?---Mmm.

Do you understand that?---Yeah.

And they're general tenders open to the world to apply for?---Yes.

And as part of that tender process you might get very reputable tenderers? ---Yeah.

20 And you might get some bad builders?---Correct.

Now the system at UTS was not like that, was it?---No.

As far as you understood, the project managers or those above them would select a group of potential tenderers and invite them and only them to tender for work?---Yes.

So that the bad builders or ones with bad reputation never got asked to provide a tender?---That's right.

30 And it was then your understanding, was it, that of those selected or chosen tenderers - - -?---Mmm.

- - - the one with the cheapest price got the job?---Yes.

Nothing further, Your Honour, Commission.

40 ASSISTANT COMMISSIONER: Thank you. Does anyone else wish to ask this witness any questions? Thank you. Well you are now excused, Mr Hood?---Thank you.

**THE WITNESS EXCUSED**

**[14.56pm]**

ASSISTANT COMMISSIONER: Yes, Mr Downing?

MR DOWNING: Commissioner, the next witness is Chelliah, and I apologise if I don't pronounce this correctly, but Karunaharan, otherwise known as Haran Chelliah.

MR FRAZIS: May I be excused?

ASSISTANT COMMISSIONER: Yes, you may be excused. Yes, just have a seat. Now Mr Mahendra - - -

10 MR MAHENDRA: Yes.

ASSISTANT COMMISSIONER: I think you can be heard there, or it might be a good idea if you come up to the front. Mr Mahendra, does your client seek the section 38 declaration in this matter?

MR MAHENDRA: He does, Commissioner.

ASSISTANT COMMISSIONER: Thank you. The declaration I'm about to  
20 make means that none of the evidence you give here can be used against you in future proceedings, criminal, civil or disciplinary, and the only exception to that is if it is found you breached the act by providing false or misleading evidence. Do you understand that?

MR CHELLIAH Yeah.

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  
30 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.

**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  
40 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 Chelliah, you're required to take an oath on the bible or make an affirmation to tell the truth.

MR CHELLIAH: On the bible, yes.

ASSISTANT COMMISSIONER: Yes.

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Mr Chelliah, could you tell the Commission your full name, please? If you could tell the Commission your full name, please?---Can you speak a little bit louder?  
10

MR DOWNING: I'm sorry. Can you tell the Commission your full name, please?---Chelliah Karunaharan, it's my legal name.

And - - ?---And Haran Chelliah in business.

Thank you?---In shortened form.

And if you could tell us your date of birth?---14/11/1950.  
20

And your address?--- [EDITED]. I noticed that you still have the old address.

Right, thank you. Now in terms of your professional background, you're an engineer by training?---Qualified electrical engineer.

And for some time you have conducted a business in the engineering field- - ?---Yeah.

30 - - -under the name Webster Wagner Engineering?---Yeah.

And it's correct isn't it that in the period from about - I'll withdraw that. Do you recall when it was that you started Webster Wagner Engineering? ---It was around '92 or before.

Sorry?---1992 or before, but then it didn't operate for five years then in '97, late '97 I started again.

40 Commissioner, I'll tender the compulsory examination because I won't be going over all the material. It's been distributed already this morning when the orders were lifted in respect of it.

ASSISTANT COMMISSIONER: Yes. The compulsory examination of Mr Chelliah will be Exhibit 18.

**#EXHIBIT 18 - COMPULSORY EXAMINATION TRANSCRIPT OF HARAN CHELLIAH DATED 3 JULY 2012**

MR DOWNING: Mr Chelliah, you remember, you recall earlier in the year attending the Commission and giving some evidence?---Yeah.

MR STITZ: Commissioner, would you just pardon me for a moment? Thank you very much.

10 MR DOWNING: So, Mr Chelliah, if you just, doing your best to recall, when was it that Webster Wagner Engineering started actively trading?  
---It was the end of 2007.

And up to that point had you been working in another organisation?  
---Yeah.

And what was that?---It's Waterman AHW.

And was that also a company that provided engineering services?  
---Yes.

20 Can you describe the type of engineering services that Webster Wagner provides?---It provide electrical, mechanical, fire, hydraulics, acoustics, lifts and building services.

Can I ask that you just try and keep your voice up a little bit. If you can just try and keep your voice up a little bit, it is just little bit difficult to hear?  
---Right. Electrical engineering, we do only building services, electrical engineering, mechanical engineering, fire services, hydraulics, lift services and acoustics.

30 Right. And were you doing similar sorts of work when you were doing the work for Waterman AHW?---Yes.

Can I ask, from the time Webster Wagner Engineering has begun trading, has it done work, contract work for UTS?---Yeah, after starting the Waterman, sorry, after Webster Wagner starts trading, yes, we did some work for- - -

40 And did you have an existing relationship with people at UTS through the work that you did at Waterman?---Yes.

So Waterman AHW had provided some engineering services to UTS in the past?---Yes.

And it's fair to say isn't it that between 2007 and say 2010, Webster Wagner Engineering got quite reliant on UTS for quite some degree of work?  
---I wouldn't say reliant on UTS but- - -

Sorry, it was clumsy use of words---? - -we did some work for UTS.

And UTS was a reasonably important client for your business in its early days?---It's ah, I think less than 30 per cent, 25 to 28 per cent or something.

Right. Of your overall turnover or- -?---Turnover, yeah.

10 Now, in the course of you work through Webster Wagner and for UTS, were you familiar with the Facilities Management Unit?---Yeah, we did do most of the jobs through Facilities Management.

And I take it that through your dealing with the Facilities Management Unit you got to know some of the people working within it?---Yes.

And was Mr Faysal one of those people?---Yes.

And do you recall when you first met Mr Faysal?---No.

20 Would it have been, doing your best, soon after you started doing work at Waterman or was it only after you started with Webster Wagner?---While I was at Waterman.

So you knew him before you started your own company Webster Wagner? ---Yeah.

And you understood, didn't you, that he had an engineering background? ---Yes.

30 So, that he was a mechanical engineer?---Yes.

And you understood that he was involved with particular projects at UTS? ---Ask the question again, please?

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

And you knew he worked within the Facilities Management Unit?---Yes.

40 The Facilities Management Unit looked after various projects that needed to be done at the university, didn't they?---Yes.

And did you understand that Mr Faysal's role was to have input into those projects?---Yes.

And do you recall on the last occasion when you gave evidence, at page 162 of the transcript at about line 15, you're asked by the Commissioner that through your knowledge, a question to this effect, that through having worked with Mr Faysal and knowing what his position was at the university, that you understood that he had some influence on who would be contracted

to the university and you answered yes he may have. Do you recall that?---  
Not really.

Well you knew Mr Faysal's position at the university?---Yeah he's a  
technical person there.

And you knew that some of the projects that the FMU looked after had  
some engineering aspects to them?---Yes.

- 10 And you, didn't, you knew as well, didn't you, that Mr Faysal had a role in  
ensuring that when jobs were being done that they were being done  
properly, that is after a contract had been allocated?---Yes.

So did you understand from what you knew of Mr Faysal's work and his  
position that he was a person who might've been in a position to have some  
influence on the allocation of work to people within the FMU? Do you  
understand what I'm asking you, Mr Chelliah?---Mr Faysal had influence in  
- - -

- 20 I'm not asking whether you knew that he had particular influence on  
particular jobs, I'm asking based on your knowledge of him through his  
work and his position whether you understood he was in a position where  
when it came to allocation or work within the FMU he could have some  
influence?---He has, he checks the quality of the work.

So that when it came time to allocate work to tenderers on another job for  
instance or people that put in quotes, he could have some input about who  
should get the work?---I don't know whether he had individually capable of,  
whether he had the individual control over it.

- 30 Sorry, I couldn't hear.

ASSISTANT COMMISSIONER: He didn't know that he had individual  
control over it, but that's not what you're being asked. You're being asked,  
to your knowledge, was he in a position to make recommendations or to  
express views that somebody's work wasn't up to scratch? That would have  
been part of his job, wouldn't it, as a project manager? Wasn't part of his  
job to oversee how well the work was being done?---He checked the work.

- 40 Well and if he formed a view about somebody's work - - -?---And - - -  
- - - it would be his responsibility to let the university know, wouldn't it?---  
He checked over submissions also.

Sorry?---He checked the work and checked the submissions also for the  
work.

And the submissions for the work?---Yeah.

And well I don't, this is really, like, pulling teeth, but I don't know, would you not accept that in his position in the university he would have some influence over which contractors were used?---Yeah. My experience with the university is that I have been in, in the meetings and there will be eight to 10 people or, and they decide the - - -

And, sorry?---And they decide who gets a job.

10 Nobody is suggesting he decided on his own?---He may have.

Well, he would have had some input is all we're saying. Do you understand that?---Yeah.

Well, you understood that at the time didn't you, that he would have some input into decisions?---He, he would have made some recommendations.

He would make recommendations. Thank you. Could you just try to keep your voice up, it's very difficult to hear you. That microphone doesn't  
20 actually amplify your voice - - -?---Oh, right.

- - - it's recording so you - don't sit too close to it because you distort it but just keep your voice up?---Okay.

Thank you. Yes, Mr Downing.

MR DOWNING: Now, Mr Chelliah, in the course of your dealings with the University at some point you started engaging Mr Faysal to provide services to Webster Wagner?---His company do (not transcribable)  
30

Sorry, you really need - - -?---Yeah.

- - - to keep your voice up?---Okay, yeah.

Can you describe the circumstances in which that came about?---Yeah. I had a job in ABN Amro, it was end of 2008. I needed a small mechanical job, six or eight hours a day job and it was given to Mr Faysal.

And was that because in your discussions with him you were aware that he  
40 was a mechanical engineer?---I know he is a mechanical engineer and I know he is a fairly knowledgeable mechanical engineer.

Did you have any knowledge at the first time at which he did work for you that he'd conducted work outside of his University employment?---I can't remember exact communication at that time, I gave it to him and he maintained that he's allowed to work.

Well, did he say something to you about the fact that he could do work outside of the University?---Yes.

Do you recall that?---Yeah.

Do you recall - - -?---I don't know exactly when, when it happened but he did mention that he's a - - -

10 Well, do you recall was it soon before you first gave him a job or that is a job to do for Webster Wagner or was it some time before?---From Webster Wagner.

No, but in terms of when you had this discussion where he made you aware that he could do outside work, engineering work, was that quite soon before you first allocated him a job to do for Webster Wagner or was a long time ago?---I can't recall the exact timing.

20 Well, I think - you were asked when you gave evidence on the last occasion about your invoices and accept from me the first invoice is dated 15 August, 2008, that is an invoice from Mr Faysal's company, NA & CW Investments to Webster Wagner. You say that you'd started Webster Wagner in late 2007?---Yeah, it's about July or after August 2007.

All right. Do you think that the discussion with Mr Faysal where he told you of the fact that he was interested or able to do outside work, was that back when you were at Waterman AHW or was it after you'd started Webster Wagner?---I can't recall exactly when it happened.

30 Just trying your best to recall did you offer him some work soon after you found that he was available to do the work or was it a long time after you found that he was available to do the work?---I can't recall, I can't recall.

In any event, can I ask you to go and have a look at page 830 of the second volume of the exhibits. It should appear on the screen in front of you in just a moment, Mr Chelliah. Do you recognise that document?---Yeah, I submitted that, Commissioner.

Now, is, that, is that a document you created?---Yes.

40 And is that document - and I'll take you to the other pages, but does that document set out a summary of particular jobs that Mr Faysal did some work for you on?---Yeah.

And if I could ask you then to have a look, so it starts 15 August, 2008? ---Yeah, that is the ABN Amro job I was just mentioning.

If you could then go to the second page which is at page 831, is that the second page of the same document?---Yes.

And again, that sets out the particular jobs that Mr Faysal did some work for you on?---Yes.

And what he charged you for the work?---Yes.

And if you could go to page 832, is that the third page?---Yes.

10 So that shows that over that period from 15 August, 2008 until 15 December, 2011, the total payments to Mr Faysal's company of \$152,235.75?---Yes.

Now, do you recall Mr Faysal saying anything to you about whether it was allowed for him to do outside work at the University?---He did say that and he maintained that.

Did you ask him about that before he started doing work for you?---I think even the first job he said that he can work before we started the job.

20 But how did that come up, was that something you asked him about or was it something he raised with you?---As I mentioned, I can't remember the whole incident. There was a job available.

Well, can I ask you this. At the time he first started doing work for you in August 2008, and I'll take you to the specific invoice, if you go to page 833 and have a look. You've produced to the Commission, haven't you, a series of invoices that you have of work that Mr Faysal did through his company, NA & CW Investments?---Yes.

30 And I want you to accept from me that this is the first in time. And I think you indicated before that you had a recollect of the ABN Amro job as being one that he got involved with at the beginning?---Yeah, that's the first job.

Well, at this time in August 2008, it's the case isn't it that your company, Webster Wagner, was doing contract work for UTS?---Yes.

And from time to time you were putting tenders or quotes in for work at UTS?---Yes.

40 And you understood that those tenders or quotes were going to a part of the University, the FMU, where Mr Faysal was working?---Yes.

And I think you've accepted from my questions and those of the Commissioner today, you understood that Mr Faysal's position from what you knew of him was such that he might have some input into the particular selection of contractors for particular jobs that were coming up in the FMU?  
---He - - -

Do you understand what I'm asking you?---He may have some influence.

Did it concern you at all that you were now paying to do work for your company someone who was in a position where he could influence perhaps the allocation of work that you were quoting or tendering for with the University?---I didn't see it that way at the time.

10 Well, can I ask you, what way did you see it at the time?---He was a good engineer and we have done work in UTS and saw a lot of challenges and I saw him as a clever engineer working and he told me that he's allowed to work.

You're an engineer and Mr Faysal's an engineer and you met through his work at UTS?---Yeah.

I take it you've met many other engineers in the course of your business over the years or your work?---Yes.

20 Do you understand what a conflict of interest is?---All this work were nothing to do with the UTS jobs, it's outside.

But do you understand to someone, an observer looking in at the relationship between Webster Wagner and Mr Faysal, that there might be a degree of concern that on the one hand Mr Faysal was being paid by you or Webster Wagner to do work for you and at the same time he was in a position where he might have some role in deciding whether you as opposed to some other contractor might get engineering work at the university? ---I didn't see it in that way at that time.

30 Do you say that it just didn't cross your mind that that could be a potential problem?---Not at all.

Well, can I ask, would it have concerned you if you knew that for instance Mr Faysal, who was working within the FMU and had some role in deciding on who might be allocated work, was being retained to provide services to another company that was contracting in opposition to you for engineering work. Would that have concerned you?---Could you please repeat the question?

40 If Mr Faysal, to your knowledge, was working for another engineering company as at 2008 - - -?---Yeah.

- - - and Mr Faysal was working within the FMU at the University of Technology and he was making decisions or having input in decisions, I should say, about the allocation of work, would it concern you if you were competing against another company for whom he was actually doing work?--I never thought about that.

Just thinking about it now, would that cause you as a company wanting to tender for work or quote for work at UTS, would that make you uncomfortable, the knowledge that Mr Faysal might have some business relationship with another company that was competing against you?---If I, if it is open, no. If I, if I openly no that it is working there then it wouldn't bother me.

10 Do you think it might give the perception that the playing field for people competing for work wasn't quite level?---Maybe depending on how the decisions are made, depending on UTS within the organisation.

Because you understand, don't you, that people within the FMU might have different reasons for making recommendations for one contract or another? There might be different aspects of a contractor's work that would make them attractive to one person who is making recommendations? Do you agree or disagree or, sorry, do you not understand the question?---I don't understand.

20 I'll move on. Mr Chelliah, did you ever think it was appropriate that you should notify the university of the fact that Mr Faysal was doing outside work for you?---No.

Did it ever, did you ever consider that?---He did one job then he did another one.

30 I'm sorry, I couldn't hear that?---He did a couple of jobs and somebody came and asked me for, to talk to me about his work and then I was going to meet them and they came back and said there's nothing wrong, and they said - - -

Sorry, who - - -?- - - and they said they don't need to meet me.

Who are you talking about, someone at the university?---Peter, Peter Mulhall.

Sorry?---Mr Peter Mulhall.

ASSISTANT COMMISSIONER: Mr Mulhall.

40 MR DOWNING: Sorry.

ASSISTANT COMMISSIONER: When he was doing the investigation.

MR DOWNING: So this is the investigation in 2010?---Yeah. And then he said that he doesn't need to talk to me and Nabil maintained that he's allowed to work, so - - -

Sorry, is this - - -?---It didn't bother me, I didn't go any further.

So is your recollection that prior to that dealing with Mr Mulhall that you'd spoken to Mr Faysal and he told you he was allowed to do outside work?---  
Yeah.

And you were satisfied with that?---Yeah. Prior to that and then after that also, and because after the investigation nothing happened, so I took his word.

10 That he was still okay to do outside work?---Yeah.

Having looked at that, those documents I showed you before, from pages 830 to 832, Mr Faysal through his company did quite a bit of work for you over the period 2008 to 2011, didn't he?---Yes.

And if you have a look at, your invoices run between page 833 and 864, that cover that period. If you could just have a look, for instance, at say page 833 and then 834, do you see that those two invoices refer to a description of work or a scope of work and then they set out hours and an hourly rate?--  
20 -Yeah, yes.

Can I ask you was the idea of billing at an hourly rate per hour, was that something that you'd asked Mr Faysal to do or was that something that he just did in the invoices he provided to you?---It depends on the job we do. It's a Hamilton Telephone Exchange and I must have asked him to work on an hourly rate, it's a small, you know, fairly big job there. And (not transcribable) and I don't know whether I asked him after I started the job or before I started the job.

30 I was going to ask if Mr Chelliah could just have a quick look through a series of the invoices and rather than having them flick over the screen if he could just be shown the second volume of the Exhibits 3B and ask that he open it at 833. If you just open it at that page for now, Mr Chelliah. So 833 is the first invoice in time. Do you see the numbers in the top right corner?--  
--(No Audible Reply)

Do you see that?---(No Audible Reply)

40 I want you to just go through the next 30 or so pages, just quickly looking at the invoices, but what I want you to look at specifically, and before you start, it's correct, isn't it, that all of your invoices from Mr Faysal's company either set out hours and an hourly rate or a detailed description of particular works that he did for you? That's what I want you to look and tell me if you agree with that proposition. Mr Chelliah, having looked at just a sample of them then, do you agree that they either show the hours and hourly rate or a detailed breakdown of the particular tasks that Mr Faysal did?---Yes.

And was that something you asked him to do or was that something he did without being asked?---I would have asked him because subject of what type of work he was doing, if he has put a fixed price for the job, then it will be in time, what do you call, task-based. If I have asked him once I start the job, oh, we don't know the (not transcribable) of work, then I would have asked him to do hourly rate.

10 Right. Can I ask you just looking for instance at page 835, that's a job involving the Gosford Telstra Exchange?---Yes.

Now, that refers to visiting the site twice and consultation with the local Council. Do you see that in Mr Faysal's invoice?---Yeah.

Can I ask, was Mr Faysal often doing his work for you during business hours?---He had done business hours.

20 Well, was most of the work that he did for you work involving him attending, attending to tasks during business hours?---There were site visits, meetings.

I'll ask, I'll come back to this in a moment, but just thinking generally, the work that he did for you, was it ordinarily work that he did between business, ordinary business hours?---

MR MAHENDRA: With respect, Commissioner, the witness has tried to answer that question by reference to the type of work that was conducted.

30 ASSISTANT COMMISSIONER: Well, I think he was trying to answer it by reference to a specific instance but Counsel Assisting is just asking generally.

MR DOWNING: Do you understand what I'm asking you, Mr Chelliah?  
---I have to go through the whole account and say how much- - -

Well, I'm asking you, I'm asking you to look at- - -?- - -or what portion is- - -

40 I'm sorry, I didn't mean to talk over the top of you. I'm not asking you to go through every account, I'm asking you to cast your mind back to the work he did, was it generally work that was performed during business hours, that is the work that Mr Faysal did for you?---(not transcribable) mention if it is a meeting or a site visit I know that he is doing business hours. If it is a design or drawing he, he was doing it after hours or whatever time convenient to him.

So it varied?---Yeah, it varies.

And looking at this job particularly, the one referred to at page 835, there's reference there to site, visiting the site and consultation with a council. Were those things like site visits, were they things that are normally done in business hours?---That's what I said, yeah, site visiting are during normal hours.

And it's the case isn't it that he - I withdraw that. Do you recall in respect of the, the job with the Gosford Telephone Exchange that Mr Faysal at some point brought another person along?---He may have.

10

Well, do you recall, you told us earlier in your evidence about Mr Mulhall and him coming and asking you questions about Mr Faysal?---No, he didn't ask me question, he wanted to see, meet me and when I said when he sent me an email saying that he doesn't need to meet me.

Right. So there was never a meeting?---I never met him.

20

Do you have, do you have any knowledge of Mr Faysal at some point bringing along another person to Gosford on a particular job?---He may have but I am not sure.

You're not personally aware?---I'm am not sure.

It's the case, isn't it, that during some months Mr Faysal performed quite a number of hours for you, that is, for Webster Wagner?---You mean regarding this, this job or - - -

30

No, just during the periods that he worked there were some months when he performed quite a number of hours?---I think that, I think that maybe you're referring to State Street, yes, there were a lot of meetings and technical, technical seminars.

Well, if I could ask you to have a look at page 847 in the brief. Do you see that's in relation to a Project Green Star?---Yeah.

And where was that job located?---It's in Sydney.

In Parramatta was it or - - -?---No, in Sydney, George Street.

40

Right. And where in George Street?---420 George Street.

And do you see that that invoice refers to in part of May 2010 Mr Faysal doing peer review including attending technical workshops for 40 hours? ---It's a brief description but each of these advisors submitted a commission with timesheet.

Right?---It tells what day what he did, briefly, everything brief but at least it gives you some idea when he did it and what, how many hours he has spent.

But just looking at that invoice, putting aside the breakdown in the timesheet, that shows him doing 40 hours for part of May on that particular job?---That particular job was a big job.

Right. And technical workshops, were they things held during business hours?---Yes.

10 And what about peer review, was that something that you understood Mr Faysal did during business hours?---You can do out of hours but it depends on what part of peer review, is it review of a drawing, after hours you can do it.

So if you could then look at page 849, do you see that's another invoice in respect of Project Green Star?---Yeah.

And that refers to 14 hours of work, the balance of May 2010?---Yes.

20 And it refers to peer review and technical workshops as well. So looking at those two invoices at pages 847 and 849, that comes to 54 hours that Mr Faysal, of work Mr Faysal had done for you in that month on the Project Green Star?---Yes. But one is for June, one of May.

847 and 849?---Yeah, it says 57 hours for June 2010.

I'm sorry?---And the other one says balance of May 2010.

Page 847 is 40 hours for - - -?---Oh, sorry, I was looking - - -

30 - - - part of May, do you see that?---47 say part May, yeah.

40 hours on Project Green Star?---Yeah, there is a time sheet for that.

And then 849 talks about 14 hours for the balance of May?---Yes.

40 So that's 54 hours of work that Mr Faysal performed in, for you or for Webster Wagner in respect of project Green Star in May 2010? You agree with those two timesheets and that's what they show?---I agree, yeah. Each of these invoices will have a timesheet and that's, that's what it is (not transcribable) time, yeah.

Would you agree, though, that 54 hours of work from someone who was already a full time employee is quite a lot of work that he was doing for you during May 2010?---I didn't go into the details.

Well - - -?---From the time sheet I know that he came for the meeting or he did that work, so I never totalled it up and see whether he can handle it or not.

But did it never concern you at all of the amount of work he was doing for you when you knew he was in a full time employee at the university?---I didn't pick up that at that time.

But you were receiving these invoices and a breakdown of the timesheets?--  
-Yeah and I went through the timesheet and work, and I know that he did that work.

10 So you would always check the timesheets to make sure that the hours were actually being done by Mr Faysal?---I glanced through them.

But do you say that you just didn't put together the sum of the hours in terms of the work he was doing?---I didn't put because I was here and outside other at the UTS how much it's coming up at. If I can present this invoice.

I'm sorry, what did you say, Mr Chelliah?---I want to just show you how the process is, how we process all these things.

20 Sorry, you have a document with you?---Just a sample.

Of one of his, the timesheets, or - - -?---Yeah, one of his timesheet and how we invoice it.

Perhaps if I can have a look.

30 ASSISTANT COMMISSIONER: Can you get that thing (not transcribable) invoice?

MR DOWNING: So is the document that you've provided to me a bill from you to GRS Asia Pacific?---Yeah. (not transcribable)

Sorry (not transcribable) Australia Limited?---Yeah, that project manager for that project.

And was this your bill for work done - - -?---Yeah.

40 - - - in December 2010?---For them, and then we attach every engineers timesheet there, no, every engineers time spent on it and then have attached Nabil's one to show you that that's where it's coming from.

So that - - -

MR MAHENDRA: Sorry, Commissioner, did you want a copy of that as well?

ASSISTANT COMMISSIONER: Yes, thanks.

MR DOWNING: So that when you would submit a bill to your client you would send them a bill but also a timesheet showing the hours that you spent and the hours that others, including Mr Faysal, had spent on a project?---This particular client asked us to work on (not transcribable).

Well I'm grateful to you for showing me that so that I understand the clients were aware of the hours?---Yeah.

10 But what I'm more interested in is whether you ever had any concern about the number of hours Mr Faysal was spending doing work for you when he was a full time employee?---I think at one stage when he was doing peer review he wasn't attending the university.

ASSISTANT COMMISSIONER: You understood he wasn't attending the university when he was doing peer review?---Yeah.

Is that what you said?---Because he's told me that he has got time to do the job.

20

He was doing, on time off?---Yeah.

MR DOWNING: And Mr Stitz has reminded me, I should indicate this in fairness that between February and July 2010 Mr Faysal was suspended, there was a period when he was being investigated and his employment was suspended. Now, Mr Chelliah, you've, I've taken you to the various invoices you received from Mr Faysal, and is it the case that for each of them you were satisfied that it was genuine work that he performed for you?---Yes.

30

That you never had any concern that what you were being charged wasn't value for money for what you were paying him?---I valued his work a lot.

And you believed that what you were being charged was a fair, a fair fee - - -?---Yeah.

- - - for the work he was doing for you?---Yes.

40 Can I ask you during the period that you were dealing with UTS did you ever have any communications from people at the University in respect of whether there were any procedures or policies at the University governing matters such as conflict of interest?---I can't remember any such incident.

Do you recall any communications from the University in respect of policies or procedures that applied about procurement procedures at the University? ---I don't know any procedures but I don't know whether the, maybe they were, they have sent it to us previously at Waterman.

Do you have any recollection of receiving any information or communication from the University about that?---No.

What about any communication from the University about any policies or procedures that govern the acceptance of gifts or benefits by staff?---What is the question?

Acceptance of gifts or benefits by staff?---I can't remember giving any gifts to - - -

10

No, no, I'm not asking whether you gave any gifts, I'm asking if you recall whether there was any information or communication you received from the University about whether there was a procedure or policy at the University that governed whether staff were allowed to receive gifts or benefits?---I think they used to accept Christmas gifts.

Mr Chelliah - - -?---Then I think at one stage they, there was some things about it but - - -

20

But what I'm asking about though is whether you ever received any information whether someone telling you or in the form of an email or a letter from the University - - -?---I can't remember reading anything.

- - - about whether staff were allowed to accept gifts or benefits?---Yeah, I can't remember any of that.

30

And what about whether you received any communication from the University about whether staff were permitted to do outside work, that is, did you ever receive any communication or information from anyone at the University about whether staff, that is University staff, were permitted to do outside work?---I haven't read anything.

Do you recall receiving anything from the University about that?---I can't, no.

And it's the case isn't it that in respect of Mr Faysal you say that you accepted at face value what he told you about being permitted to do work? ---Yeah, he said that he is allowed to work.

40

You never took that up with anyone else at the University?---No.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Does anybody seek to examine this witness? No. All right. Mr Chelliah, that concludes your evidence and you're now excused?---Thank you.

Thank you.

**THE WITNESS EXCUSED**

**[3.43pm]**

ASSISTANT COMMISSIONER: Yes, Mr Downing.

10 MR DOWNING: Commissioner, we have about 15 minutes left. There is Mr Jurgeleit who I understand is here. I don't imagine his evidence will take more than that so I think we could probably fairly conveniently fit him to the balance of today so I'd ask that Mr Jurgeleit attend.

MR RADOJEV: My name is Radojev, R-a-d-o-j-e-v, I appear for Mr Jurgeleit, your Honour, sorry, Commissioner.

ASSISTANT COMMISSIONER: Yes. You're seeking leave to appear for him?

20 MR RADOJEV: I am seeking leave.

ASSISTANT COMMISSIONER: Yes. Does your client seek a section 38 declaration?

MR RADOJEV: He does.

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

MR JURGELEIT: Yes.

40 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.

**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.**

ASSISTANT COMMISSIONER: Mr Jurgeleit, you are required to take an oath on the Bible or make an affirmation?

MR JURGELEIT: Affirmation.

10

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Thank you. Please sit, and could you try to keep your voice up, Mr Jurgeleit?---Yep.

Thank you. Yes, Mr Downing.

10 MR DOWNING: Thank you, Commissioner. Mr Jurgeleit, if you could tell the Commission your full name?---Gary Jurgeleit.

I'm sorry, I mispronounced it before, I'll try and pronounce it correctly. And your date of birth?---3<sup>rd</sup> of the 6<sup>th</sup>, 1955.

And your address?--- [EDITED].

Now, tell us what your line of work is?---I'm an air conditioning contractor.

20 And is it correct that the company through which you do your air conditioning work is Airin Services Pty Limited?---Yes, it is.

And it's correct that you've been doing work through Airin Services for UTS for a number of years, going back at least to 2006?---Yes.

Does it go back quite a bit further than that?---About 12 months before I think.

30 And would you agree that in the period between about 2006 and 2011, UTS has been a source of a fairly significant amount of work for you?---Yes.

So that they're an important client for you?---Yes, they are.

And do you, in the course of your dealings with UTS, are you familiar with the Facilities Management Unit?---Yes.

Is that the entity within UTS through which you've done most of your work?---Yes, it is.

40 And you're familiar with people that work within the FMU?---Yes.

Is one of the people that you've got to know through your work at the University Mr Faysal?---Yes, it is.

And did you understand that he was someone that worked on particular projects within the FMU?---Yeah, he did.

And did you understand that he was a person that had some involvement in the process of first of all giving advice and recommendations about the awarding of contract work- - -?---Yes.

- - -which would involve air conditioning as well?---Yep, yep.

And he has been specifically involved, hasn't he, in projects where you have provided quotes or tenders for work at the University?---Yes, yes.

10 And you've dealt with him in that capacity over a number of years?---Yes, I have.

And is it the case that most of the work you've done through the University is obtained through you providing quotes or tenders?---Yes, it is.

Is it both or one or the other?---Both actually.

20 And is it the case that with smaller jobs you generally provide a quote and with bigger jobs you put in a tender?---Tendered, yeah, that's right.

And can I ask you, in the course of your dealings with Mr Faysal, has he ever communicated with you about specific quotes or tenders submitted by competitors to you?---No.

Never?---No.

Has he ever contacted you and spoken to you about for instance the price that someone quoting for work might be putting in?---No.

30 And how about price related, compared to your price?---No, not, I don't, not that I can recollect.

You don't recall him every contacting you about those things?---No.

Can I ask that you listen to a telephone conversation, and at this stage I'll distribute and tender two, there are two calls, I'll distribute the, and tender the transcripts now at the one time, Commissioner. They're on 16 March, 2012 and 22 March, 2012.

40 ASSISTANT COMMISSIONER: Yes. Those transcripts will be marked Exhibit 19.

**#EXHIBIT 19 - TRANSCRIPT OF INTERCEPTED  
TELECOMMUNICATION G00285\_00\_00 16/03/2012 10:49:34  
FAYSAL/JURGELEIT; TRANSCRIPT OF INTERCEPTED  
TELECOMMUNICATION G00285\_00\_00 22/03/2012 12:22:32  
FAYSAL/JURGELEIT**

**TAPED CONVERSATION PLAYED**

**[3.49pm]**

MR DOWNING: Mr Jurgeleit, you heard that conversation?

---Yes.

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

You contacted him?---Yes.

Do you, having heard that, agree that there was a discussion you had with him about a quote or a tender you must have put in the night before?---I don't know what day it was that I had to deliver it.

Well do you recall, according to the transcript, it says, good, good I put it in last night, they're your words?---Yeah, they are.

20 And there was a discussion there about a price, wasn't there?---Yes, there was.

About 155 plus GST being your price?---Yes.

Does it trigger your recollection now that Mr Faysal has spoken to you at times about the price that you might want to put in for a particular job?---I can't remember whether - - -

30 Well - - -?---Maybe so, yes.

- - - in the course of that discussion Mr Faysal says to you on the first page of the transcript, okay so (not transcribable) has been added, you added something it was 158 before I gave you the discounted from Ramsey. That tends to suggest that you had a prior discussion with Mr Faysal about the particular quote you were going to put in?---I think so, yes.

It's the case, isn't it, that he gave you a bit of coaching about how you might want to submit your quote and at what price?---Yep.

40 And he gave you some information about Mr Ramsey, being Mr Franjeh, and the control - - -?---Yes.

You know him from Rega Controls?---Yes.

And it's the case that he gave you some information about how you might structure your quote in order to make sure that it would be one that would be acceptable to the university and would win the job?---Yeah, I suppose. But not, not always was the cheapest price won the job.

Not always the case that the cheapest price gets it?---No.

But he'd given you some specific information about a discount that Ramsey could provide in relation to control panels. Is that correct?---Yes.

And you'd worked that into your quote with a view to try and come in with a price that would be acceptable to the university?---Yeah, yep.

- 10 You understood, didn't you, that the information that Mr Faysal was providing to you was information that would ordinarily be confidential?  
---Yes.

That it's not normally the case that someone like Mr Faysal who has a role in allocating work or having input into the allocation of work at the university would be speaking to individual contractors like yourself and giving you hints or coaching about how you might structure or write your quote in order to win the job?---No.

- 20 You understood that what he was doing was the wrong thing?---Yes.

Okay. Now you recall, and this is on the second page of the transcript, Mr Faysal said the words, lets win it, once we win it we'll work out something don't you worry about that. You heard those words?---Yes, I did.

- 30 Did you understand that from that that Mr Faysal was suggesting that in some way he would look after you once, or that he expected you to look after him, I withdraw that. Did you understand him that he was expressing the view that if you won the contract after his help he would expect some form of you taking care of him?---No.

Well what did you think he meant by saying lets win it, once we win it we'll work, we'll work out something don't you worry about that?---I don't know, mate.

Have you ever made any payment to Mr Faysal?---No.

- 40 Have you ever offered him any gifts or other services?---I, I give him a weekend away through an Accor thing that I had.

That was for him and his wife?---And I still have. Him and his wife and family.

So you met the cost of what, accommodation for a few nights or a couple of nights?---Just for the accommodation, I didn't pull, fork any money out, it was just a points system that I have with Accor and it was up for renewal, I was gonna lose the points and I just offered him that.

And that was a gift that you provided to him?---Yes.

A gift to someone you understood would have some influence in making decisions - - -?---No.

- - - about awarding of contracts that you were applying for?---Not at all.

10 Well you've told me already haven't you that you understood that in his position he had some input into decisions about awarding contracts to people who wanted to do work through the FMU?---Earlier days he did I think.

What, do you say at some point he changed positions and had no input at all into the awarding of contracts?---I think it may have happened, yes.

Well when do you say you understood that he had nothing to do with the awarding of contracts?---Pardon, sorry?

20 When do you say his position changed so that he had nothing to do with the allocation of work or the awarding of contracts?---I can't remember which year it was but when a new director was appointed.

But Mr Jurgeleit, I'm sorry, I won't cut you off, please finish what you were saying?---It was when, it was when he, a new director was appointed and they moved him out of that position.

But Mr Jurgeleit - - -?---I think - - -

30 Mr Jurgeleit, the transcript that you've looked at in front of you and the conversation you've just heard that was on 16 March this year?---Yeah.

That was a discussion then in which he was indicating providing some coaching to you about a particular contract and suggesting that once you win it you could work out something?---Yeah, well I - - -

40 Well you understood then, didn't you, that he was a person that you hoped would have some influence on the allocation of work your way?---No, yes and no. He's, yeah, I don't, he's been a big help all through the, all through the years for the university as far as the jobs go.

A big help for you in terms of the allocation of work?---No, not at all, just in general.

Well what do you mean a big help, a big help to who?---Well if you had a problem, had a problem with the job you could talk to Nabil and he could sort it out.

But this wasn't a conversation with you talking to him about a problem you had with performing your job on a particular project, was it? It was a conversation involving you - - -?---Yes, it was.

Ringin'g him up after you put in a quote or a tender and which you'd given you some coaching or advice about and just discussing with him whether he thought it would be okay?---Mmm.

Can I ask you to listen to the second telephone conversation.

10

**TAPED CONVERSATION PLAYED**

**[4.00pm]**

MR DOWNING: Commissioner, I am conscious it's a few minutes after 4.00, I won't be very long in terms of the questions I have to ask so I intend to ask them now.

ASSISTANT COMMISSIONER: Yes.

20

MR DOWNING: I understand that Mr Stitz has some questions he wants to ask as well, that might mean we have to sit a bit longer or perhaps go over till tomorrow.

MR STITZ: Well, I don't know if I've got questions to ask.

ASSISTANT COMMISSIONER: No, look, I'm fairly confident we can finish if we go on, I'd rather not keep the witness if we can let him go.

30 MR DOWNING: Thank you, Commissioner.

Now, you heard that second conversation?---Yes.

And that's you speaking to Mr Faysal when he called you back some I suggest six days later?---Yes.

And it was a discussion about the same project that you were talking about in the earlier call, correct?---Yes.

40 And Mr Faysal calls you and you heard him, he gave you some information about the prices that had been put in by other people competing again you? ---Yes, he did.

You understood that was confidential information which wasn't - - -?---Yes.

- - - publicly available?---Pardon?

You understood that that was confidential information he was giving you?

---Yes.

And in effect he was telling you that through his information and coaching you'd been able to come up with the lowest price, that's correct, isn't it?

---Yes.

And what's he's suggested to you is that the 10,000 in the controllers made the difference. Now, the controllers is some part of the quote that you'd put in in respect of Rega Controls' controllers. Is that correct?---Yes.

10

What was the \$10,000 a reference to?---To controls for the air conditioning.

And was that information that Mr Faysal had given to you and suggested that if you'd structured your bid that way it would help make it the lowest price?---Obviously, yes.

20

And at the top of the second page of the transcript of this call you say the words, after being told that it looked like you had the lowest price and that it sounded good, you said, "But anyway, everything is going to be a variation to build, there's not going to be any holding back this time." By those words did you mean that your idea was to get the, get the contract by quoting low but then to knowingly in advance plan that you would put in a whole series of variations in order to bolster what you could actually charge?---Not at all. All through the time that I've been working with UTS I've never put variations in unless they've been a legitimate variation. There's been a lot of jobs that I've never ever put variations in.

But you're discussing variations before you'd even won the contact. Correct?---Yep.

30

So what you've indicated in that call was that you weren't going to hold back, that every, your words were, "Anyway, everything is going to be a variation to build, there's not going to be any holding back this time?" ---That's right.

So you're expressing a view at that point that – and tell me if you agree or disagree with this – that you'd contracted, you'd tendered at a price of 155. Was that \$155,000 for the job?---Yep.

40

But your intention was that you weren't going to hold back and that once you started the job, assuming you won the contract, that you would be putting variations in?---If there was a variation to be had, yes.

Well, Mr Jurgeleit, ordinarily a variation comes about because something unexpected happens. Correct?---That's, that's correct.

You were expecting this in advance, weren't you?---No, I wasn't expecting anything in advance.

Well, tell me what you meant then by the words, “But anyway, everything is going to be a variation to build, there’s not going to be any holding back this time?”---That’s what I was saying to you a minute ago, I never put a variation in. If there was any variations on this job I would have put it in.

But you’re expressing an intention up front that that’s what you’re planning to do, that you weren’t going to hold back, that’s what you were explicitly going to do, to put in variations?---If they arose, yes.

10

Well, you didn’t say that, did you?---No, I didn’t say that, no.

You’re not being full and frank in what you’re saying about this conversation, are you?---I am.

And can I suggest to you that Mr Faysal, after you told him that there would be no holding back and you’d be putting in – that everything was going to be a variation to build, he said, look, don’t worry, once you start managing it, I’ll let you know how and you’ll make the submittals and take the approvals?---Yep.

20

So what Mr Faysal was communicating to you, I suggest, was that yeah, you put your variations in and I’ll manage it and make sure that everything’s okay?---That’s what it sounds like, yes.

That’s what you understood, wasn’t it?---Mmm.

MR RADOJEV: That was a nod, by the way.

30 ASSISTANT COMMISSIONER: Yes.

MR DOWNING: And there was a discussion in that conversation about Bryce. Do you remember who Bryce was?---Yes, Bryce Hutchison was the project manager.

Within the FMU?---Yes.

And Mr Faysal gave you some information, didn’t he, about what you should say to Bryce when it came to particular aspects of the work?

40 ---Yes.

Suggests that you should respond to him in a particular way in relation to whether you should get a crane or manually take out old package units? ---Yes.

So he was coaching you about how you might respond to questions from- - ?---No, not at all. I’d already made up my mind which way I was going to do the job.

Do you agree that in the course of that phone call Mr Faysal told you, this is the response you should have if Bryce asks you a question?---No, I don't.

Do you agree that the information that Mr Faysal provided to you in the course of that conversation is information that would not ordinarily be provided to contractors who were putting in a quote or a tender but it hadn't yet been decided or announced?---Yes.

10 Remember at the beginning of today's evidence I asked you whether you'd ever had any discussions with Mr Faysal where he'd given you information about jobs or quotes?---Yes.

That wasn't truthful evidence, was it?---Pardon?

That evidence that you gave at the beginning today wasn't truthful evidence on that subject matter, was it?---No.

Thank you?---My apologies.

20

ASSISTANT COMMISSIONER: Thank you. Yes. Does anyone wish to cross-examine this witness? All right. That concludes your evidence, Mr Jurgeleit, and you are now excused from further attendance?---Thank you.

**THE WITNESS EXCUSED**

**[4.09pm]**

30

ASSISTANT COMMISSIONER: And we will adjourn until 10.00am.

MR DOWNING: One last matter?

ASSISTANT COMMISSIONER: Yes?

MR DOWNING: If I could just tender the actual compulsory examinations of Mr Jurgeleit. We varied the orders earlier today but I'll tender the two transcripts of his compulsory examinations.

40

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: So it relates to 15 June and 4 July. I think they have been distributed to the parties.

ASSISTANT COMMISSIONER: They will be Exhibit 20.

**#EXHIBIT 20 - COMPULSORY EXAMINATION TRANSCRIPT OF  
GARY JURGELEIT DATED 15 JUNE 2012 AND 4 JULY 2012**

ASSISTANT COMMISSIONER: Thank you, and we will now adjourn  
until 10 o'clock tomorrow morning.

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