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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION STARK

E08/0253

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY, 27 SEPTEMBER, 2012

AT 10.04AM

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: Thank you, Commissioner. The first witness, well the only witness today I anticipate will be Mr Faysal but before I have him called he did give evidence on 11 September 2012 and I seek that there be a variation of the, of the section 112 order because I would like to tender the transcript of the compulsory examination. I know a copy has been provided to Mr Stitz previously. Well I think we're in terms of - we're having copies prepared at the moment, so could I nominally tender it now and we will have copies prepared for distribution to the other parties shortly.

ASSISTANT COMMISSIONER: Yes. Well in respect of the compulsory examination of Mr Faysal I remove the non publication order and it will be Exhibit 29.

THE NON-PUBLICATION ORDER ON THE COMPULSORY EXAMINATION OF MR FAYSAL IS REMOVED

20

#EXHIBIT 29 - COMPULSORY EXAMINATION TRANSCRIPT OF NABIL FAYSAL DATED 11 SEPTEMBER 2012

MR DOWNING: I call Mr Faysal.

ASSISTANT COMMISSIONER: Yes. Is Mr Faysal here?

30 MR STITZ: Yes, Commissioner.

ASSISTANT COMMISSIONER: Yes. Could you come forward, please. Just take a seat.

Mr Stitz, is your client seeking a section 38 declaration?

MR STITZ: Yes, Commissioner.

40 ASSISTANT COMMISSIONER: Mr Faysal, the effect of the declaration I'm about to make is that nothing you say here can be used in any civil, criminal or disciplinary proceedings and the only exception to that protection is if it is found that you breached the Act by providing false or misleading evidence or in some other way. Do you understand that?

MR FAYSAL: Yes.

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 accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

10 **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 ACCORDINGLY THERE IS NO NEED FOR THE
WITNESS TO MAKE OBJECTION IN RESPECT OF ANY
PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING
PRODUCED.**

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

MR FAYSAL: On the bible.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Downing.

MR DOWNING: Mr Faysal, you recall giving evidence before the Commission on the 11th September this year?---Yes.

10 And do you recall on that occasion that you indicated that at one point during your work at UTS you received a pamphlet in respect of corruption?--Sorry?

You received a pamphlet on the topic of corruption?---Yes.

And that it showed a picture of someone receiving a \$50 note?---Sorry, I didn't see it I said that I didn't receive it I said I've seen it distributed in the lobbies of the University.

20 I think you said that you were aware that it showed a picture of someone receiving money into their hands, \$50 note into their hand?---That's what I've seen, yes.

And you understood from that didn't you that, that it would be corrupt for someone like you as a UTS employee to accept money in connection with your work at UTS?---Yes.

30 And on the last occasion I think, please tell me if you agree with this that you said that accepting money from a personal company that you were dealing with at UTS for nothing that would be corrupt conduct?---That's right.

That is you understood that accepting payment not for a service that you might be doing in a private capacity as an engineer but in the course of your work at UTS that would be corrupt conduct?---Sorry, I missed this one, can you repeat it, please.

40 That accepting money, thinking about your position at UTS that it would be corrupt conduct for you accepting money from someone not in connection with outside work that you were doing in your own private capacity as an engineer but in connection with your work at UTS. That would be corrupt conduct?---That's right.

Now do you accept that it would also be wrong and corrupt of you to ask a contractor at the University for money?---That's right.

And to receive such money?---Yes.

And please tell me if you agree with this, on the last occasion you said that if a contractor at UTS gave you a gift such as a television and you kept it for your personal benefit without disclosing it's the University that would almost amount to corrupt conduct?---That's right.

Now can I ask you if you have any concept of what a conflict of interest is?
---Conflict of interest is what is described at the, at the policy.

Which policy are you referring?---The UTS policy.

10

What, the Code of Conduct?---Sorry?

The University Code of Conduct?---The University Code of Conduct, yes.

Now, it's correct, isn't it, that throughout your employment at the University you've known that there was a Code of Conduct that applied to all staff?---I start knowing about in 2010 when I started responding to the previous allegations.

20 Mr Faysal, it's correct isn't it that on each occasion you signed a contract going right back to 1999 you received a copy of the Code of Conduct?
---Yes.

And you signed many contracts, didn't you, over the years?---Yes.

Including in 2007 when you were promoted to the position of acting manager?---There was no contract, no.

There was no contract?---Yes.

30

You were aware weren't you, though, that there was a Code of Conduct that the University had in place that applied to all staff including you?---The Code of Conduct was never attached to my contracts at the University.

Can I ask that you have a look at a, can I ask that you have a look at a bundle of contract documents, I'll provide a copy for the Commissioner and I intend that will be tendered, Commissioner. You see the first pages are a copy of your 1999 contract?---Yes.

40 And do you see on the first page under (a) it provides in accepting employment with the University you agree to comply with and be bound by the University's Code of Conduct, a copy of which is attached?---Yes.

And you signed the next page?---Yes, I signed the next page.

Do you say that you didn't receive the Code of Conduct?---No.

Can I ask you to look at the fourth page which is - - -?---Yes.

- - - a 29 November, 2000 letter to you?---Yes.

And do you see that's another contract being offered to you at the University?---Yes.

And do you see again it suggests that you were agreeing to be bound by the Code of Conduct and a copy was attached?---There was no copy attached to that contract.

10

Do you say at no time during your employment at the University did you ever receive a copy of the Code of Conduct?---No.

You've never had one?---Never had one.

I tender the various contractual documents in respect of Mr Faysal.

ASSISTANT COMMISSIONER: Yes, they will be made Exhibit 30.

20

#EXHIBIT 30 - CONTRACTUAL DOCUMENTS IN RESPECT OF NABIL FAYSAL

MR DOWNING: Now, Mr Faysal, can I suggest to you that the evidence you're now giving isn't a truthful account of the documents that you received?---These ones, yes.

30

In terms of what you received from the University. You're not being honest in saying you never received the Code of Conduct, are you?---I am honest and I have copies of this, I still have copies of these contract and there was nothing attached to it.

Do you recall that earlier this year when documents were taken from your house under a search warrant, various documents were taken by people from the Commission?---Yes.

40

Do you recall that one of the documents taken was the 2002 Code of Conduct?---(No Audible Reply)

That is that it was found in your premises?---Yes.

So you had one?---I didn't have one. This what you took was a copy of the letter from the letter of allegation which I received 2 February, 2010. This letter which you took was not attached to any of my contracts.

I'm sorry, I just want to be clear about this. Are you saying that you agree that there was a Code of Conduct, the 2002 Code of Conduct that was in

your possession on the day documents were seized?---I did not, what I am saying that that copy which was seized during the day of the search warrant was not attached to my contract, this was attached to the letter of allegations which I received from the University dated 2 February, 2010.

Are you saying that you received a Code of Conduct that is for the first time in 2010?---That's right, which was attached to the letters of allegation.

Mr Faysal, that's simply not true, is it?---It is true.

10

You understood as an employee that there was a Code of Conduct at the University that applied at all times from when you began work didn't you?
---I see the staff notices at the University that there is a Code of Conduct.

Well, the very first contract you signed which I showed you a few minutes ago referred specifically that in accepting the employment you were agreeing to comply with and be bound by the Code of Conduct. You signed that document didn't you?---I didn't say that I didn't comply, I said that there was no Code of Conduct attached to my contract.

20

Well, I'm suggesting that you're not being truthful about that. Do you dispute that?---I say that I am saying the truth.

You understood as a senior employee of the University you had an obligation to make yourself aware of codes and policies that applied to your work, didn't you?---I wasn't a senior employee of the University, my position was senior mechanical engineer till March 2007.

30

Mr Faysal, you understood that all employees at the University were bound by a Code of Conduct, didn't you?---Yes, I'm not saying I'm not. But what I'm saying, I did not receive a copy. This was not attached to my contract.

I understand that's your evidence, Mr Faysal?---Yeah.

You had an obligation to make yourself aware of codes or policies that applied to staff, didn't you?---When it was made aware to me, I was aware of it.

40

You had an obligation, do you understand what I'm suggesting to you, to make yourself aware as an employee of documents like Code of Conduct that governed your work at the University?---When I was told about it, when I was trained about it, I will say yes.

Mr Faysal, can you please answer my question?---I'm answering your question.

You had an obligation as an employee to make yourself aware of documents like Code of Conduct that governed your work. Do you agree or disagree?--
-I agree.

Do you say that despite that obligation until 2010 you had no cause to ever think about or look at the Code of Conduct?---That's right.

That's not truthful is it, Mr Faysal?---It is true.

10 You're aware, aren't you, that there was a University website at which various publications like Code of Conduct, policies and procedures could be found?---Yes.

Did you ever take the time to look at those?---No.

So you're aware as an employee that those documents existed?---Yes.

20 You're aware that as an employee that they were documents and policies, procedures that governed your work and your obligation to the University?--
-Yes.

But you made no attempt to familiarise yourself with it?---No, 'till 2010 when I started reading them to respond to the allegations raised against me.

You had an obligation as an employee to know about those things, didn't you?---That's right, but I said I did not read it.

30 All right. I'm suggesting to you that you're not being truthful in that evidence?---Sorry?

I'm suggesting to you that you're not being truthful in that evidence?---I am truthful.

That you're lying to the Commission as you give this evidence today?---I'm not lying, I'm saying the truth.

40 All right. Now going back to the conflict of interest, I asked you about whether you had any concept of what that was and I think you said as described in the University's documents and you said that that was a reference to the code?---Which I read 2010.

All right, which you read. So you had no concept, is that, is this your evidence that until 2010 you had no concept of what a conflict of interest was?---I started knowing about the conflict of interest in 2009 as I told you on the previous examination when I engage Vic Baeuris as an independent property advisor to assist me in sharing the tender assessment (not transcribable).

Sorry, is the effect of that answer that until 2009 you had no conception of what a conflict of interest was?---No. He's the one who describe it to me and he wrote the conflict of interest papers which I had to sign at the time.

Can I suggest to you, Mr Faysal, that that's not a truthful attempt to answering my question?---I'm answering truthfully.

10 You understood that you had obligations to the University in the course of your work with them, didn't you?---Yes.

And you had, did you understand that you couldn't favour your own personal interest over the University's interests through your work at the University?---And I never did.

20 Well we'll come to that. Can I ask you if, um, you understood that if you were to accept money or gifts which were more than token value from companies quoting for or tendering from work at the University, that that would put you in a conflict of interest where your role at the University involved you having some input into the procurement process?---That's right, but I didn't do it. I understand this, yes.

So you understand that would have been a conflict of interest?---I understand this, but this wasn't the case that applied to me at the time.

Well we'll come to that. And I asked you on the last occasion when you gave some evidence about your role at the University, particularly between 2007 and 2009?---Yes.

30 And you told us on the last occasion that during that time that you were in a position where projects were, which were being managed by individual project managers, would come to you?---Yes.

And you had involvement in terms of either sitting on a tender committee which you chaired?---Yes.

And making decisions on projects?---Yes.

40 Or in terms of within your area of delegation that is financial delegation up to \$200,000, being able to give approval to recommendations made by individual project managers?---That's right.

Now thinking about your employment from 1999 up until March 2007 at that point you were involved as a project manager on individual projects, weren't you?---Yes.

So that you would be in a position to make recommendations which someone above you would then look at and either approve or disapprove in

terms of the awarding of contract work?---No, my role was technical advice only.

But you would make advice and recommendations including as to who might be awarded a contract?---No.

You deny that?---I deny that.

10 Wasn't your role as an engineer at the University and as a project manager to actually look at potential tenders or quotes that were coming up and then to give input as to who might be best placed to do the work and who the contract might be awarded to?---Not before 2007, 30 March 2007.

Well can I ask you - - -?---Sorry.

I'm sorry?---Let me clarify one point, I've never been a project manager at the University.

20 I thought a moment ago you said you were?---Senior mechanical engineer from 1999 the day I started 'til, 'til 10 August 2009.

But as, as - - -?---My position was a senior mechanical engineer 'til 30 March 2007 where my position still a senior mechanical engineer was higher relieving duties, acting manager building works.

Okay. Do you say that as a senior mechanical engineer up until the point where you made an acting manager in 2007 that you didn't have any involvement in the procurement process?---No.

30 You say that you had none?---Technical advice only that was my role.

But technical advice including in respect of individual projects were coming up before the FMU. That's correct isn't it?---That's right.

So technical advice would mean for instance who might be able to do particular work involved in for instance mechanical engineering works? ---Yeah.

40 How that work might be done?---The project managers from the project, all what I do is provide technical advice.

But technical advice about or including in respect of individual contracts coming up?---Yes.

Now you've told me that you'd never seen any of the documents on the UTS website up until you were handed a copy of the Code of Conduct in 2010. Is that correct?---That's right.

I'll just ask you quickly then to look at some documents. If you could go to and these are the documents in the first volume of the exhibits folder. First of all page 70. That's the 2002 Code of Conduct. Do you say that the first time you ever saw that was in 2010?---Yes.

So do you say you were unaware of the, until that point if you go to page 71, the obligations there in respect of conflicts of interest?---That's right.

10 And if I could ask you then to go to page 73. Do you say you were unaware of the obligations in terms of acceptance of gifts and benefits?---Yes.

And outside work and private practice?---That's right.

But you agreed with me before that you understood that it would be wrong and corrupt to be accepting gifts and benefits of more than nominal value from people who were doing contract work at the University?---That's right, that's my understanding.

20 Now I'm suggesting to you just so that I'm being fair that you had in fact seen this Code of Conduct and were aware of it before?---Not before 2010.

But you've agreed with me that you understood your obligation was to know about it?---Yeah.

All right. Can I ask you then to have a look at the Code of Conduct which appears at page 75. Now do you recognise that as a 2011 Code of Conduct?---2000?

30 And 11?---11. Yes.

So did you see this at the time it came out?---No.

Do you deny receiving an email telling you that there was a new Code of Conduct?---I don't recall. Maybe there is emails on, general email which comes to the University.

Telling you about the introduction of new policies and procedures?---Yeah.

40 Do you say you received those and took no notice of them?---Yes.

But your position is isn't it that from 2010 when you received a copy of the Code of Conduct you'd read it at that point?---Yes.

And you were aware of what it required in terms of conduct from that point onwards?---Yes.

If I could ask you then to think about the topic of procurement, that is the procurement of goods and services through the University. Through your

work in the FMU you had some involvement in the procurement process didn't you?---Yes.

And can I ask you whether you're aware that there were particular policies that applied in respect of procurement at the University?---Yes.

For instance you're aware weren't you that there were procurement requirements that applied in terms of how many quotes were required depending on the level of financial, the level of - I withdraw that.
10 Depending on the value of the procurement activity involved?---Yes.

So that a certain number of quotes were required with the number going up according to what the value was?---That's right.

And above a certain value then it required a tender process?---That's right.

And could I ask you to have a look at page 155 of the same volume. Do you see that's the UTS Procurement Policy and Directives and if you skip ahead to page 164 you'll see that part of it came into being in 2005 and part in
20 2006?---Yes.

And do you see at page 158 that consistent with what you've just told me that it sets out there what type of procurement or method of procurement is required depending on the financial value?---Yes.

Had you seen this before?---Yes.

So you were aware of this document?---Yes.

30 Could I ask you then to go to page 161. Do you see at the bottom of the page at 5.9 there's certain information set out there in terms of confidentiality and other ethical considerations?---Yeah, I can see it now.

Well, you'd read this document hadn't you? You were aware of it in the course of your work at the University?---I was aware of it, I read two pages of it.

So do you say you read the part that set out the levels of - or the methods of procurement but didn't read the rest?---I read two parts of it which is the
40 method of procurement and the authorised delegation.

Mr Faysal, you are deliberately giving evidence to try and minimise your knowledge of important policies and procedures at the University aren't you?---I'm not, I'm telling you the truth. I was so busy that period, 2007 to 2009, I was delivering hundreds of projects at the University and I've read this to comply with the procurement policy.

So you're able to say now, sitting back in 2012, that you read those two pages but not the other parts that set out for instance ethical obligations?
---Yes.

You're lying to the Commission to try and explain away your ignorance aren't you?---I'm not, I'm not.

Mr Faysal, let's go back to page 161?---Yes.

10 And do you see that it provides that probity and ethical behaviour were essential at all times of the quotation and tendering process including the receipting and processing of tenders?---Yes.

Do you see that it provided that subject to 5.12 below no information provided by a quotation provider or a tenderer relating to a quotation or tender should be divulged to another quotation provider or tenderer at any stage during the process or after its been concluded?---That's fine.

20 They were, even without reading this you knew that that was behaviour that was required of you, didn't you?---I, I was almost complying with this one, I didn't disclose any information to anyone which compromised the University confidentiality.

So you say that you never disclosed any confidential information at any stage of the tender process or quotation process or after it had been concluded?
---No.

30 You never did?---No.

And so I take it then you were aware of the need to act with probity and ethically in respect of your involvement in the tender and, and quotation process?---If I'm running the tendering, yes, if I'm not running the tender - -
-

No, if you were involved in the tendering or process, or quotation process?
---If I am involved with it, yes, and my actions were right, if I wasn't involved with the tendering I wasn't involved with it.

40 Right. If you could go back to page 156 please?---Yes.

Do you see there are certain principles set out there in relation to the procurement process?---Yes.

Principal 3 sets out probity and ethical behaviour requirements?---Yes.

And do you see it lists there certain requirements in terms of the procurement process and there are a number of bullet points, one is to deal fairly, impartially and consistently with all suppliers?---Yes.

Do you say you always did that in your dealings with suppliers?---I believe so.

10 All right. Secondly, to keep confidential all sensitive information obtained as part of the procurement process, do you say that you acted in that manner?---Yes.

Thirdly, that you were required to declare any potential conflict of interest prior to the commencement of a procurement activity and abstain from any procurement activity where its been deemed that a perceived or actual conflict of interest exists. Do you say you acted in that manner?---Yes, for the project which I used to sit on the Tender Assessment Committees.

20 No. See, what you're trying to do now is minimise your involvement, aren't you, Mr Faysal?---No, I sat down on many (not transcribable) and I complied with the requirements.

Procurement activities govern more than just sitting on the Tender Assessment Committee, don't they?---Yeah.

They involve all levels of involvement in the procurement process from the selecting of potential quotation providers or tenderers, through to the awarding of a contract?---That's right.

30 And do you say you acted in that manner when you were involved in any part of that process?---Yes.

And finally the bullet point provides that there's a requirement to ensure that the entire procurement process is documented in such a way as to demonstrate the decisions were made in accordance with the procurement principles. You see that?---Yes.

And do you say you always acted in that manner?---Yeah.

40 All right. And in 2011 are you aware that a new version of the procurement policy came into being?---No.

Can I ask you to have a look at page 167? Do you recognise that as a new version of the procurement policy?---Yeah, that's the first time I see it.

So again do you accept that it's likely that you received an email at the University alerting you to the fact that it had come into being?---Yeah, but they didn't ring me, but since - - -

So you didn't bother to look?---Since I came back in July 2010 I've never involved in any procurement of the University.

So not had any involvement in any procurement?---No.

All right, well we'll come back to that?---Yeah.

So you're saying you hadn't seen this document before?---No.

10 Despite knowing that you had an obligation to actually make yourself aware of documents like this?---No, I didn't see it.

Was that just because you were too busy or because you didn't care?---No, I wasn't busy at the time, not I don't care, I do care, but I wasn't involved in procurement, that's why I didn't read it.

20 All right. Now just dealing with the issue of gifts and benefits, can I ask you to go to page 73, sorry I withdraw that, 93 of the volume. Now you've told me already that you knew yourself that accepting gifts or benefits at more than nominal value from contractors was wrong and not to, wasn't allowed?---Yeah.

Were you familiar with this document?---No.

Never seen it before?---No.

So again do you say that it's likely you received some notification by email about it but you didn't make yourself aware?---That's right.

30 Mr Faysal, in respect of all this evidence you're giving about not knowing, I withdraw that, about not making any attempt to review these documents, I'm suggesting you're not being honest with the Commission?---I am honest, I said I didn't read it.

And what you're trying to do is excuse your lack of knowledge of documents which you know your behaviour has been closely in breach of?--
-I don't think my behaviour was, any, at any time was wrong.

40 But I'm suggesting to you that that's why you're telling us that you hadn't seen these documents or parts of documents, because you're trying to suggest that in some way your behaviour can be excused because you weren't aware?---No, I still take pride of what I've done and I don't believe that my behaviour was in any time compromising the University interest.

All right. Well let's, if I can ask you to have a look at page 94 of this document. Do you see under the definitions it defines a major gift or benefit as a single gift or benefit with a fair value in excess of \$250?---I can see it now, yes.

And if I could ask you to go to the next page, page 95, do you see that this document sets out certain conditions that mandate rejecting gifts and benefits?---Yeah, I can see it now.

And do you see it provides that a gift or benefit may not be accepted in certain circumstances, and firstly it provides if it's intended or likely to cause the recipient or donor to act in a partial manner in the course of their duties?---Yes, I can see it.

10

Secondly the intended donor has been requested to give the gift or benefit?--
-Yeah.

Thirdly a reasonable observer would think that the recipient might be under an obligation to act in a partial manner?---Yes.

And fourthly the offered gift is money or anything readily convertible to money?---Yes.

20 Do you say that in all of you work at University that you've acted consistent with those requirements?---I believe so. I'm not denying that I didn't receive gifts, I said yes I received gift, but never been considered that I compromised my position at the University of Technology of Sydney.

I'm not asking whether you believe you compromised your position, I'm asking whether you acted consistently with that requirement that they not be accepted if any of those circumstances apply?---But I'm saying that I read this one now and I believe I acted properly.

30 In accordance with it?---In accordance yes.

And do you see under five at the bottom of the page, 5.1 provides that all significant and major gifts and benefits given to the University employee are the property of the University?---I can see it now, yes.

So that if something of more than \$250 in value is given to the University that that becomes the property of the University?---That's what the document says, yes.

40 And if I could ask you to go to page 97 and that deals with the category of gift or benefit of major, that is greater than \$250 value and you'll see that the table there provides that the head of the unit can accept the gift on behalf of the University?---Yeah.

Do you say that at all times in terms of offers of gifts or benefits or receipt of them by you you've acted consistent with this document?---I wasn't aware of this kind of document.

But, but seeing it now on the provision that it wasn't permissible for University employees to keep things of more than \$250 value but instead that they became the property of the University do you say you acted consistent with that?---No.

No?---No. How I would consistent with it if I receive, I said received gifts, yes.

We'll come to the gifts you received - - -?---Yeah.

10

- - - in a moment. Now dealing with outside work do you say, well you've told us that you hadn't received the 2002 Code of Conduct up until 2010? ---Yes.

So do you say up 'til that, into that point you had no knowledge of any obligations or requirements the University had in place in respect of employees like yourself doing outside work?---That's right.

So you had no idea?---No.

20

Mr Faysal, you're not giving a truthful account are you?---I'm saying the truth. When I was made - this document was made available to me I submitted my first outside work application 2010.

Mr Faysal, I'm suggesting to you that you're lying to the Commission in your evidence and what you're attempting to do is to explain the fact that you did outside work but did no, made no attempt to make anyone aware of it?---I never denied that I done outside work since 1999 when I started with the University.

30

All right. Well can I ask you to go to page 111 in the volume. This is the UTS outside work policy that existed as at 2002. Do you say you never, never seen this?---No.

Consistent with other policies that I've asked you about do you accept it's likely you received an email about it but that you say that you didn't make any attempt to read it or inform yourself about it?--That's right.

You're not being truthful in that answer are you?---I'm saying the truth because this document was (not transcribable) also to the (not transcribable) of allegation which I was provided on 2 February 2010.

40

Mr Faysal, do you believe it was this one or a later version of the outside work document?---(No audible reply)

Can I ask you, well, sorry I'll let you answer that. Do you believe it was this document or a later version?---This document which was dated 2002 and I responded to this letter of allegation regarding that one.

All right. Can I ask you then to go ahead to page 118. Do you see this is the outside work Vice Chancellor's directive of 2009?---Yes.

Can I suggest that this was a document that (unintelligible) seized from documents that you had in your possession in 2012 when a search warrant was executed on you?---Yeah, I'm not saying so.

Is it possible that it was this document you were given in 2010?---No. Both documents, this one and the other one.

10

So you had both?---Yes.

So do you say as at 2010 you received both the 2002 and 2009 outside work documents?---Yes.

I take it you read them then?---Sorry.

I take it you read them then?---Yes.

20

And you're aware of what they provided in terms of outside work?---That's right.

Can I ask you then to have a look at the 2009 document which we've got opened in front of us at page 121. I'm sorry, 122. Do you see there is a definition section there? Do you see that?---Yes.

And you see outside work can include a number of different things including work as a professional service or as a private consultant?---Yes.

30

Looking down the page at 3.6 you see that professional services are defined as paid services being offered by a staff member as a member of a profession for example as a barrister, lawyer, journalist, engineer or architect either through the conduct of business practice or as an employee of a business. And do you say that the work you did as a consultant engineer from about 2006 onwards fell within that definition of professional services?---I believe so.

40

Well look next at 3.7 there's a reference there to private consulting and do you see that it describes it as referring to consulting undertaken for remuneration by a staff member in his or her personal capacity as an individual as opposed to his or her capacities as a staff member of the University and that private consulting is consulting that utilises the same professional skills and knowledge for which the staff member is employed by the University?---Yeah.

See that? Now the professional skills for which you're employed at the University were skills as an engineer?---That's right.

So it's correct isn't it that the outside work you did also involved those skills?---Yes.

And that in that sense you fell within the definition of doing private consulting work, that is outside work being paid where you were exercising your skills as an engineer which were the same skills the University employed you for?---Yes.

10 So reading that you understood that you fell within both of those categories, professional services and private consultant?---Yes.

Right. Now can I ask you just quickly to look at a couple of other documents in respect of outside work? Could you have a look at document at page 148? Do you see that that's an outside work human resources guideline from the University?---Yes.

Now you're aware of the human resources department at the University?---Yes.

20 And can I ask you whether you've seen this document before?---Maybe, that's a part of a document, can you refer to me the dates of this document?

It's 2002, if you look at the bottom of page 149 it's 2002 outside work HR guidelines?---Yes, yes, it was attached to the letter of allegations.

Do you say you hadn't seen it prior to that time?---No.

30 But you understand don't you that you had an obligation to make yourself aware of human resources guidelines at the University?---Yeah, but I did not read it.

But you didn't?---Yeah.

And I said, I put this to you repeatedly but I'll put it again, I'm suggesting you're not being honest in terms of your knowledge and having access to such documents?---I disagree. If I was aware of it I would have submitted, I was working outside since 2001 or 2002. If I was made aware of it I would have applied.

40 Well I'm suggesting that right from the beginning of your work in 1999 when you received the Code of Conduct, I withdraw that. I'm suggesting that from 1999 you received the Code of Conduct with your work, sorry, with your work contract?---1999 when I signed with University there was attachments to my contract in 1999. And that attachment I responded to it in the letter of allegation and it was copied what there was which is not this document.

No, in 1999 attached to your contract was the Code of Conduct?---1999 there was pamphlets, not the Code of Conduct. I don't remember what was attached to it but there was a lot of documents attached to my 1999. My 2001 contract there was nothing attached to it, my 2002 contract there was nothing attached to it. My 2009 contract there was nothing attached to it. My 2011 contract there was nothing attached to it.

10 And you understand I'm suggesting to you that this evidence that you're giving about that is not truthful?---It's truthful.

Can I ask you then to have a look at a document at page 153? Do you see that's a human resources department fact sheet about outside work and protecting your interests?---I have to look here?

I'm sorry, it should be on the screen if - - ?---It's not on the screen.

153. It should be up in a moment, I'm sorry Mr Faysal. Do you see this is an HR fact sheet, human resources fact sheet in respect of outside work and protecting your interests?---No, I didn't see this one before.
20

And it's from 2003?---No.

You say you've never seen that?---No.

Do you say you've never seen that?---No. I don't recall I've signed it, no.

But again you accept that you had an obligation to make yourself aware of HR policies and documents that existed at the University?---Yeah.

30 But you say you didn't in respect of these?---No. If it is attached to the letter of allegation I would have seen it, if it's not attached I would not.

So that up until you received the letter of allegation you had no knowledge of your own about any of these documents?---No. Except the procurement document which you have shown to me, I've seen it 2006. The 5.3.1 procurement policy.

40 ASSISTANT COMMISSIONER: Mr Faysal, as I understand your evidence you are now agreeing there were a number of brochures attached to the letter of 1999?---Yes.

And may have included a Code of Conduct?---Yeah, I've read that one and - -

Sorry?---I read that one, yes.

In 1999?---1999, yes.

And there was a Code of Conduct attached at that time?---I don't recall whether there's a Code of Conduct but I read it and I complied with it. There was attachment to my 1999 contract, if you allow - - -

Yes, which may have included a Code of Conduct?---Yes, I still have a copy of it at home.

Yes, thank you.

10 MR DOWNING: Thank you, Commissioner.

So in 2009 - I withdraw that. In 2010 you've told us that you did receive the 2002 and 2009 outside work documents from the University?---I believe so.

And you read them?---Yes.

20 And you've agreed with me that you understood under the 2009 document that the work that you had already been doing fell within both professional services and private consulting?---I would say so.

And I take it if you could go to page 123 of that 2009 document, I take it you also read the directive principles - - -?---Yes.

- - - that, that are set out on that page?---Yes.

30 And looking at the paragraphs towards the bottom of the page they provided that in undertaking outside work staff members must be careful to avoid any real or apparent conflicts of interest with the University?---Yes.

And that outside work must be approved prior to the commencement of the work and in accordance with the directive?---Yes.

And at page 125 you see that it provided that staff had to apply to undertake outside work before, on the outside work application form and that had to be approved before the outside work commenced?---Yes.

40 And you read that when you received this document didn't you?---Yes, and I read it again when I submitted by 2010 outside work application.

And at page 126, I take it you read 5.3.1 which provided that staff members had to demonstrate that they would manage any, on an ongoing basis any real or perceived conflicts of interest through the University?---I agree.

And it referred to the Code of Conduct on that issue?---Yes.

Now, you did submit outside work application forms in 2010 and 2012 didn't you?---Yes.

And if I could ask you to go to page 911 which is the second volume of the exhibit. This is your 2010 outside work application, correct?---Yes.

Do you see on the first page it asks to indicate outside work activity and you've crossed professional practice?---Yes.

Now, you've agreed with me already that the work you were doing fell within that description but also within the description of private consulting?
10 ---I wasn't a private consultant. I was a professional practice.

Mr Faysal, I took you to the 2009 - - -?---Yeah, yeah, I'm not denying this, I've read it, yes.

Well, I'm suggesting to you that given that you already agree with me that you understood your work fell within that definition of professional practice and private consulting and given that you'd read the 2009 document by that, at that point - - -?---Yes.

20 - - - that is the Outside Work Vice-Chancellor's Directive, you should have recorded here that you were doing both professional practice and private consulting work because what you were doing fell within both?---But no one tells me that I had to tick two more, what I believe at the time when I submitted it that I am a professional practice.

Now, going ahead to the second page, do you see at the top it asks whether you were requested approval for a directorship or a partnership?---Yes.

30 Now, it's the case isn't it, that you were a director of NA & CW Investments?---Yes.

MR DOWNING: And your intention was that it was through that company that you would be doing your outside work?---That's right.

You should have indicated there that you were actually requesting approval for a directorship shouldn't you?---I, I disagree with this.

MR STITZ: Objection.

40 ASSISTANT COMMISSIONER: On what basis?

MR STITZ: I don't think that's fair to the witness, this is talking about the future. He's already a director.

ASSISTANT COMMISSIONER: Well, I don't know that, it doesn't say anything about future?

MR STITZ: All applications, well, that's something in the future.

ASSISTANT COMMISSIONER: It's applications for approval to act as a director or partner as I understand it. They're not, he's not applying for them to appoint him a director, he's applying for approval to act as a director.

MR STITZ: Well, I will make submissions about it in due course.

10 ASSISTANT COMMISSIONER: Yes. I mean, I think it is a matter for submissions but I don't, well - - -

THE WITNESS: Excuse me, I was asked - - -

ASSISTANT COMMISSIONER: The witness can certainly be asked what he thought.

MR STITZ: Yes.

20 ASSISTANT COMMISSIONER: Whether he thought that required him to declare a directorship.

MR STITZ: Yes. It's probably a fairer way of doing it.

MR DOWNING: Well, if I could ask the witness to go back to page 123 of the 2009 Vice-Chancellor's, Outside Work Vice-Chancellor's Directive? ---Yeah.

30 You'd read this when you filled in the outside work application form hadn't you?---Yes.

And do you see at 3.9 it provided that directorship or partnership referred to involvement in the running of a business or firm either as a sole owner or with one or more people or as a partner or a member of the governing board?---Yes.

40 And the fact is that what you were asking for approval for at the time you filled in this form in 2010 was for the University to approve your outside work which was to be done through a company, NA & CW Investments of which you were a director?---That's right, but the application doesn't ask to submit, to declare my existing directorship.

So you understood it to mean - - -?---The, the application refers if I'm establishing a new company and running it, if, if I establish NA & CW Investment for mechanical services in 2010 I have to declare it to the University. No one in the University told me that I have to declare my existing directorships and I responded to the letter of allegations in that matter.

So you thought that the University according to the 2009 policy document only wanted to know about new directorships?---No, that's not what they want to know. I am a director of NA & CW Investment one year before I started with the University of Technology Sydney 1999. If you go back to my ASIC's reports it's established 1998 and no one at the time in the University of Technology Sydney asked me to declare any of my existing directorships.

10 But didn't you understand that the nature of this form was that the University wanted to know about any form of outside work that you were contemplating doing?---Exactly and I submitted it.

And you were contemplating doing, well, what you were doing for the first time was telling the University that you were contemplating doing work for a company of which you were a director?---That's right.

20 Wouldn't it have been, I withdraw that. In order to give a full and honest response to this form wouldn't it have been necessary for you to actually disclose the fact that, that you were going to do the work through that company of which you were a director?---It's already disclosed in the, my response to the letter of allegations 2010. The whole University knows about my existing directorship of NA & CW Investment and the Global Construction and Developments and the Sweet Moments, shall I mention more? They all know about these, my companies.

And how do they all know?---They know, the letter of allegation 2009, they said that you are a director of this company, you a director of this company, you are a director of this company and I declared this.

30 Okay. Well, looking again at page 912?---Yes.

Given that you've agreed with me that you understood that your work fell within the definition of private consulting why did you not fill this part in? ---I ticked the box that it's a professional practice.

40 But you agreed with me before that it fell within both professional practice and private consulting?---There is a difference between private practice and a private consultant. I am not a private consultant at the time when I applied this one.

All right. I'm suggesting to you that whilst you knew that the activities you were undertaking having read the documents, that is the policy documents, fell within both categories, that you deliberately avoided filling this in because you didn't want to have to make reference to the Code of Conduct or conflict of interest or - - -?---Yes.

- - - the fact that the clients you were intending to do work for and had been doing work for were people that had been introduced to you by UTS?---I

disagree with the word deliberate. If I was deliberately done this why it wasn't corrected in the 2011 - 2012 one? This application form was filled in my supervisor's office when he sign it. You see on the, can you go to the, please, the last page.

Mr Faysal - - -?---I fill it at the same time when my supervisor sign it.

Mr Faysal, you're referring to the signature by Mr Rabbitt?---Yes, by myself and Mr Rabbitt, both of us.

10

Okay. And he gave you approval with this form?---Yes.

But it was incumbent on you to fill it in before submitting it to him, wasn't it?---I fill it in in his office, that's what I said.

But what I'm - - -?---I got, I got a copy of my professional indemnity insurance, I got a copy of my public liability insurance, they were with me and I fill it, staple it in his office and gave it to him.

20 Mr Faysal at the time you were filling this in you were aware of the fact that in the past you had done work for the University contractors?---Yes.

And you were aware of the fact that you were in, well at that point you had the intention to do more work for University contractors?---From that time I didn't do any work with any of the University contractors.

From 2010?---Yes.

30 What about Webster Wagner?---They were not doing any works for the University of Technology Sydney.

You say in 2010?---Yes.

ASSISTANT COMMISSIONER: Yes but they well could have been doing work in the future. They were a potential contractor?---If they have done any - - -

They've done work in the past?---That's right.

40 And they could well do work in the future?---And if they do any I would declare it, because the document says I have to submit any potential. If there's any potential conflict of interest I would have declare it.

Would you?---If he didn't work for the University - - -

You hadn't over any of the proceedings declared?---Webster Wagner, excuse me, Webster Wagner did not do any works to the University 2010, 2011, 2012 when I had the dealings with them.

I'm talking about prior to that you had not declared any conflict of interest?--I didn't declare but I was sitting down, I wasn't involved with any projects which was awarded to Webster Wagner.

10 So you're saying you were aware of the conflict of interest provisions but you just didn't think you came within them?---When I was made aware I used to sign on conflict of interest applications before I share the tender assessment (not transcribable). And you can check the records there, there's hundreds of projects which I attended and there was confidentiality agreements which I signed, it would be in the project documents at the University of Technology. And there was always a probity advisor sitting near me, his name is Vic Boris.

Yes, yes, probity advisors can only act on what they know. Probity advisors would not have known about some of the things that you'd been doing?---He's the one who prepared the conflict of interest and the confidentiality agreement and I used to sign it with him. And he used to witness this.

20 Yeah?---If there would be any potential conflict of interest I would declare it at the time.

All right.

MR DOWNING: Mr Faysal, do you say that at the time you completed this form in 2010 you made no reference to, or you didn't fill in the part about conflict of interest because you knew at that point that you would be doing no further work for Webster Wagner?---No, I was the one further, I was doing works (not transcribable)

30 I'm sorry, I apologise. Do you say you didn't complete that part because you knew that Webster Wagner was doing no work for the University?---Yeah.

How did you know that?---Ask Webster Wagner. They don't want to go to the University for some reason or the other, I don't know.

40 Mr Faysal, you didn't have any involvement in the running of Webster Wagner?---No.

You didn't know whether Mr Chelliah might put in tenders or quotes for work at the University?---I know when, if he submits. He was called in 2012, there was an open tender for the University for a trigeneration system for all consultants to tender on it. He received one and he called me, what do you want to do with this? I told him it's up to you, you want to submit. Whatever I told them I won't be in the tender committee or I will submit the conflict of interest.

Mr Faysal when you completed this form in 2010 you could not have known whether Webster Wagner would submit further quotes or tenders, could you?---If they would have submitted I would declare it.

So you say that you filled this in believing they wouldn't and that you would worry about conflict of interest if and when they did submit a quote or tender?---Exactly. I would submit if any potential conflict of interest would arise.

10 Well so you say you deliberately abstained from filling this part in on the belief that you can worry about it later?---I object that deliberately, no, it wasn't deliberate.

Well you're suggesting that you filled it in with a view or with an understanding that if, that if Webster Wagner were to do further work for the University that's quote or tender that - - -?---Yes.

20 - - - that could place you in a conflict of interest because you were intending to do work for them so that, I'm sorry, so that you filled it in a way where you didn't disclose any conflict of interest because at that point you didn't believe they were going to do any more work. Is that what you're saying?
---Exactly. And if he - how I know that he will be doing works up front?

Well what I'm asking you is how would you know - - -?---When it comes - what I'm saying that if I would be aware that there would be any potential conflict of interest I will raise the matter. How I know that he's submitting or he's not submitting, I don't know.

30 Mr Faysal, you'd known that he had done works for the University right up until and including 2010?---That's right.

So you're saying that you filled this in and didn't disclose any conflict of interest on the belief that he wouldn't, Mr Chelliah wouldn't submit any further quotes or tenders?---Not on the belief. I said if he would - if I - if it comes to me I would submit. How I know how he, if he submitted or not. The last job he has done was 2010 when I was on suspension, I wasn't at the University of Technology Sydney when he has done his last work.

40 I'm suggesting to you the evidence you're giving about the way in which you completed this form isn't honest?---It is honest and I submitted it and I was interviewed by my supervisor and the Deputy Vice Chancellor Resources.

Now could I ask you to go to page 920 which is the 2012 outside work application?---Yes.

And do you see again you filled in private practice but not private consulting?---Yes.

And again you did that despite what you've told me already that you understood your work fell within both?---That's right.

And do you see on the second page 921 you put non applicable in respect of the question about directorship or partnership?---Yes.

And do you say you understood that again that you didn't need to fill it in because you were already a director?---Exactly.

10

And dealing with the private consulting towards the bottom of the page, do you say that you didn't complete any of the information about conflict of interest again on the belief that whoever you were going to do work for wasn't someone that would be a contractor for the University?---That's right. Under private because I write not applicable on the private consultancy.

Though I think you said before that you understood that there had been an invitation to tender sent out to Mr Chelliah in respect of a project in 2012?

20

---It was an open tender in the newspaper.

Right, okay. What I'm suggesting to you, Mr Faysal, is that when you completed these forms in 2010 and 2012 you consciously avoided completing the parts in relation to conflict of interest because you knew what the work you were intending to do had the potential to put you in a conflict of interest and you didn't want to have to raise that with the University?---I disagree.

30

Can I suggest to you also and you need to tell me whether you agree or disagree with this that at no point did you ever tell Mr Rabbitt that you were intending to do or were in fact doing work for contractors that were doing work for the University?---I disagree.

But you didn't tell him anything about work with Rega?---I disagree.

With Cady?---Disagree.

KB Electrics?---Disagree.

40

Mr Hood?---Disagree.

Or Webster Wagner?---Disagree.

And just finally dealing with the 2012 application form - - -?---Yes.

- - - you submitted with that and this is at page 928 a time sheet didn't you?
---Yes.

And it listed there certain projects you'd been involved with - - -?---Yes.

- - - and done work on in 2011?---Exactly.

Can I ask then if you were doing work in 2011 why didn't you complete an outside work application form?---During a performance review with my supervisor Mr Rabbit in February 2011 I ask him to submit one he said you don't need one the one which you submitted is valid for one year. The 2010/11, the 2010 application apply, is valid for one year.

10

Which would what take you through to August 2011?---Probably.

Well can I suggest that that discussion never took place?---It took place.

Just looking at this document at page 928 the State Street work you described there, that's work you were doing for Webster Wagner?---That's right.

20 The Enterprise Data Centre, that's work you were doing for Webster Wagner?---That's right.

And was the Perpetual Property, that work that you were doing for Webster Wagner?---That's right.

Why did you not indicate in this that the projects were work that was being done for a company which had already in the past done work for the University?---What, sorry?

30 Why in this form did you not indicate beyond what the project was who you were doing the work for?---Yes. If you go back to my (not transcribable) can you please go to the page before this one where it was signed?

Are you referring to the page before the insurance?---No, the page before please. The page of signatures. Yes. The date of submission was 1 February.

Sorry, Mr Faysal which signature are you talking about?---My signature, my signature.

40 1 February 2012?

ASSISTANT COMMISSIONER: Yeah?---That's the date I applied for the 2012 application.

MR DOWNING: Right?---Okay. Would you please scroll down when it was approved? 15/3.

Mr Faysal, I'm not asking you about when it was approved, I'm asking you why - - -?---No, no, no. Let me answer.

No?---Let me answer, I'm answering. It took this dates because there was a lot of communication between my supervisor Mr Rabbitt and the deputy vice chancellor resources Mr Patrick Woods regarding this application. And the recent email was - - -

10 Mr Faysal how would you know about the communications between Mr Faysal and, between Mr Rabbitt and others?---I was copied on it, and Mr Patrick would responded to me on one email. He said Nabil there is an interview in the presence of your supervisor in my office and get your timesheet for the works which you have done for 2011, and that's what I did. If you go back, if you allow me to go back to my University emails you will see this and I responded that timesheet to the email from Patrick Woods.

20 Mr Faysal with respect, what you're telling me isn't an answer to my question. What I asked you was when you completed this time sheet - - -?--
-Yes.

- - - why did you list the projects but not the fact that you were doing them for Webster Wagner Engineering which was a company that had done contract work for the University?---What I'm saying, this timesheet was in response to the email which I received. It says name the projects which you worked on it and the numbers and the description. The number of hours you put and the description and that's what I did.

30 So do you say you didn't think it was important to disclose to the University that work was being done for a company which had done contract work for the University in the past?---There's no conflict of interest in it to declare it. They have done works in the past.

And as far as you're aware they might - - -?---They didn't - - -

- - - be offered, they might be interested in contracts in the future?---If there is anything in the future I would have declare it. How can I predict the future?

40 Perhaps by basing your belief of the future on what had happened in the past?---I disagree.

Now you completed a professional indemnity application for a policy on 9 June 2010 and that appears at page 897?---Yes.

And that was the first ever PI policy you applied for?---That's right.

It's your evidence to the Commission, isn't it, that for WJ Hood and Sons, Rega Controls, KB Electrics and Cady that you'd done quite a bit of professional work in 2006/2007, 2007/2008 and 2008/2009?---Yes.

Looking at the invoices that you rendered in that period and excluding the corporate gift items that you suggest you gave to Mr Franjeh - - -?---Yes.

- - - the total bill in that period up until, up until June 2008 was about \$120,000?---Yeah.

10

If you were truly doing that work in that period from 2006 to 2008 you would have applied for a professional indemnity policy, wouldn't you?---I didn't see any reason why I should submit at the time.

Well, \$120,000 worth of professional work, it's quite a bit of work over that period, isn't it?---Professional indemnity insurance is an insurance.

20

Is?---Is an insurance isn't it? If you do something wrong. Why do you need an insurance, why do you insure your car, if you have an accident then you repair the car. The professional indemnity insurance for professional engineers is to cover you if you make a deadly mistake.

And someone might sue you?---And someone might sue you.

And you tell us, don't you, that through your invoices that you did work in the period 2006 to 2008 including doing engineering design and documentation?---Yes.

30

Doing site visits and doing things like fire certification?---Yes.

It's quite possible, isn't it, that if something did go wrong in any one of those projects you could have been sued?---What would go wrong?

Well, why did you take out a policy in - - -?---Excuse me, I was, I was doing - - -

40

- - - 2010?--- - - - I was, I was doing mechanical and electrical, I'm not a structural engineer where if columns collapse or a roof collapse and I have to provide my indemnity insurance.

Mr Faysal, you didn't start doing structural engineering in 2010 did you?---No.

But you took out a policy?---Yes.

Can I suggest to you the reason you took out a policy at that point was because you were actually doing some genuine work for Webster Wagner

Engineering and it was around that time that the work became quite substantial so you thought I could get sued, I'd better get a policy?
---Exactly.

But you'd been doing, according to your records, substantial amounts of work for other companies in the past yet you didn't bother to take out a policy?---Because they didn't require me, I, I don't mind, if I made a mistake I would correct it.

10 So you were happy to - - -?---It's not a deadly mistake.

Mr Franjeh, I withdraw that. Mr Faysal, the work you were doing according to your invoices for Cady, Hood, Rega - - -?---Yes.

- - - and Mr Boobyer back in 2006 to 2008 was just as capable of involving some liability on your part as the later work you were doing for Webster Wagner, it was engineering work wasn't it?---That's right but it will not break me if I made any mistake, I would have corrected it.

20 So you were prepared to roll the dice and take a risk?---Exactly.

Right. Can I suggest to you the reason that you didn't take out a policy up until 2010 was because you weren't genuinely doing any engineering work up until that point?---I disagree.

That the work you've described in your invoices is a, that is for Cady, Cady Electrics, Rega and Mr Hood is a complete fiction?---I disagree.

30 But you can't point to any particular reason in 2010 based on the work you were doing that would explain why you took a policy then but didn't get one in the past, can you?---Because the requirement of the outside work policy I have to submit my professional indemnity insurance for that because the policy, I read the policy quite good and it says if I am doing any professional practice I have to have cover by the indemnity insurance.

So you say that's the only reason you took out cover?---Exactly, if I didn't submit the form I would not have done it. I would have continued my practice without an indemnity insurance.

40 That's not the truth is it, Mr Faysal?---It is the truth.

Now, can I ask you - I withdraw that. On the last occasion I asked you about the particular invoices that you'd submitted to KB Electrics - Cady, Hood and Rega, do you recall I asked you some questions on the last occasion about those?---Yes.

And you told me on that occasion that all of the work was genuinely done?
---Yes.

And do you maintain that position today?---Yes.

You've been present and you've heard Mr Boobyer, Mr Cady and Mr Franjeh all say that in fact you just asked them for money and that the invoices were a cover created to try and explain away those payments?

---Yes, I've heard.

10 So do you say that each of those gentlemen are lying?---I disagree with what they have said. I've carried the works.

Well, I'm suggesting to you that all of those invoices were created with the specific purpose of masking moneys you'd asked those contractors to give you?---I disagree.

20 And what I'm suggesting to you is that you were deliberately cultivating relationships with those contractors where that you would give them information or what purported to be information about particular jobs, quotes or tenders and you helped them to secure work or led them to believe you were helping them and you did this in order to try and seek from them some payment or other form of gift or benefit as a quid pro quo?---I disagree. I helped them, yes, to deliver the projects to the best interests of the University and to the University expectation, or to my expectation if you want to say that.

And I'm suggesting to you that the only engineering work you actually performed for any entity was for Webster Wagner Engineering?---I disagree. I've done everything including Webster Wagner.

30 Now this is correct isn't it that despite all of your claims and your invoices to Cady, KB, Rega and Hood as to the engineering work you were doing including design and documentation you can't produce a single document that is a product of your work for any of those jobs?---That's right.

And your explanation for that is that you didn't retain anything it was all on your computer and you've had two computer crashes where all of your data has been lost since or in the last few years?---That's right.

40 That's just a complete lie to try and explain away the fact that you don't have any documents because you didn't in fact do any work?---I disagree.

And you're lying in your evidence to the Commission now aren't you?---I disagree.

We're talking about work, that is the mechanical engineering work you were doing for those KB, Cady, Hood and Rega in the period 2006 to 2008?---Yes.

So we're not talking about work 15 or 20 years ago are we we're talking about work that was somewhere between six and four years ago?---Yeah.

And do you seriously suggest that you can't now produce a single document that you created in the course or any of those jobs?---I've (not transcribable) I got a computer crash 2008 and after - - -

In 2008?---Yes.

- 10 Conveniently at the precise time when all of those jobs came to an end and you can't produce any documents because everything was lost in the computer crash?---That's right.

That's just a lie isn't it Mr Faysal?---I disagree.

Now it's correct isn't that your invoices to Webster Wagner almost all of them set out either the hours you spent doing work at an hourly rate or a detailed description of the tasks you're attending to?---That's right.

- 20 But by contrast to that. Well I withdraw that. I'd ask you that you look at page 833 of the second volume. Do you see that's one of the invoices to Webster Wagner?---Yes.

And it shows hours in an hourly rate?---Yes.

Similarly 834 does the same?---Yes.

835 does the same?---Yes.

- 30 And if you go then to 839 do you see that's one where you haven't given particular hours but you've given a break down the particular services that you're providing?---Because this is was (not transcribable)

Okay. Now you agreed with me that almost all of your invoices to Webster Wagner show either an hourly rate or a detailed description and break down of what you were doing?---Yeah.

Sometimes they included both didn't they the hours and a detailed description?---That's right.

40

By contrast to that it's correct isn't it that none of the invoices for Cady, Hood, Rega or KB - - -?---Yes.

- - - indicate hours or an hourly rate?---That's right. It's similar to the first one on this one mechanical services \$3400 (not transcribable) the details on it.

But you don't - even looking at page 839 not one of your invoices to any of those four companies provides this type of break down in terms of the individual parts of the job and in a way that would allow someone to actually understand the particular services and what each particular service cost?---That's right.

Could I ask you to have a look at page 772 which is an invoice to Cady?
---Yes.

- 10 Now it's correct isn't it that your invoices to those four entities Cady, KB, Hood and Rega all provide only the most generic of descriptions of the work you were doing?---Yeah. What's the difference between this and the other one?

Well let's have a look. At page 772 it describes mechanical engineering design and documentation for the above site and provide counsel certification?---Yes.

- 20 Have a look at page 774 again for Cady?---Yes.

Mechanical engineering design and documentation for the ventilation system of the above site as discussed?---Yes.

775?---Yes, sir.

Mechanical engineering design and documentation for shops, shops and fit outs shown as, and discussed?---Yes.

Then looking at some Hood invoices go to 788?---Yes.

- 30 Mechanical engineering design and documentation for the ventilation system of the basement of the above site?---Yes.

790 again staying with Hood?---Yes.

Mechanical engineering design and documentation for the above site?
---Yes.

- 40 And now with Rega have a look at 804. Mechanical engineering design and documentation for CO monitoring system modifications as discussed?
---Yes.

Now can I suggest to you that if in fact these were genuine invoices they would've actually provided a more detailed description of the work you were doing?---It's the same as the one which you have shown me for Webster Wagner.

So you say they're the same?---Same descriptions.

What I'm suggesting to you Mr Faysal is the reason that these are all showing only a very generic description is that they were created after you'd requested the payments and they were based on very basic information that you'd asked for from each of the contractors to help you create a mask for the payments?---I disagree.

10 So that what you did was you asked them about jobs that they might've been doing at the time and only having basic information about those jobs you put the job name down and then just put something generic about mechanical engineering work you were doing?---I disagree.

Now can I suggest to you that in respect of some of your invoices Mr Faysal you were a bit careless in the way in which you created them?---Careless?

A bit careless or clumsy?---They were not professional but not careless yes.

20 All right. Well can I ask you first of all in respect of one of the payments received from KB you recall, and this is at page 829, that you received a payment of \$4000 from KB Electrics?---Yes.

That was deposited on 15 November 07?---Yes.

Now neither you nor Mr Boobyer had been able to produce an invoice that refers to that payment?---Sorry?

You haven't been able to produce any invoice that refers to that payment?---I believe I gave invoices for all this payments.

30 But you haven't been able to produce one have you?---No.

And you may have been here during Mr Boobyer's evidence, he hasn't been able to produce one either?---Yeah.

He says he received none?---I don't know.

40 But if you had a look at page 701 do you see that you did produce an invoice on 11 November 2007 it would seem but to Rega that refers to that specific amount of \$4000 that you had deposited from KB Electrics on 15 November?---Yes.

That's invoice 71026?---Yes.

And that invoice of, sorry that amount and that invoice to Rega of \$4000, that doesn't match any of the payments that Rega made to you?---Agree.

And Mr Franjeh, you recall, denied that he'd ever received this invoice?---That's right.

What I'm suggesting to you is that you made a bit of an error when you were creating this invoice because you mixed up who in fact you've asked for the payment from?---No I told you I've guessed this invoice two years and a half after the works had been done when I submitted my tax returns 2009.

10 What I'm suggesting is that you made an error in that you attributed the money to Rega when you created this invoice when in fact you asked or you requested the money from Mr Boobyer?---I disagree that I requested the money.

Now similarly if I can ask you to have a look at page 794 do you see that you deposited \$4290?---Yes.

From Hood?---Yes.

On 7 December 2007?---That's right.

20 But none of the invoices that you created for Hood and Sons are either produced by you or Mr Hood matches that amount?---Yes.

There is however, and I'll ask you to have a look at page 702, an invoice that you did create in the name of Rega Controls for precisely that amount - - -?---Yes.

- - - \$4240?---That's right.

30 And that's an amount that doesn't match any of the payments Rega Controls made to you?---That's right.

And you recall again that Mr Franjeh denies he received that invoice? ---That's correct.

40 Well, can I suggest again that what you did in this case was you were trying to reconstruct the invoices after you asked for the money that Mr Hood had, well, you asked Mr Hood for the money and that you made an error in who you were attributing the payment to?---I disagree, I said, I repeat what I said earlier, due to my computer crash 2008 I had to guess these invoices to the best of my recollection when I submitted my tax returns late three years.

So do you say you created this invoice in 2009?---I didn't say I created it, I said I guess it.

You guessed?---Yes.

ASSISTANT COMMISSIONER: And then created it, you guessed that that was the person who'd paid you that money?---When I was submitting my tax returns I look into bank statements and there is a cheque deposit of

4,240, I started guessing, checking what I've done during that period after three years when I submitted my tax.

And then you created this invoice, that's all you're being asked?---I didn't, I didn't submit it to Rega Controls, it was given just, it was my mistake, I shouldn't have done it, I should have guess it and put just a figure into my account.

10 Well, so you're agreeing you made, you created this invoice to do your tax, you reconstructed who you thought the money was from?---As a proof of income.

All right.

MR DOWNING: So this was created some years later, this invoice?
---Exactly, in August, created, guess, whatever you want to say.

20 Well, you understand I'm suggesting to you that the reason for this discrepancy is that you asked for the money first and created the invoice later?---I disagree.

And that you were a bit sloppy in terms of attributing the payment to a particular contractor?---(No Audible Reply)

Do you agree or disagree?---I say it's unprofessional, yes.

30 Well, can I ask you to have a look at an invoice, and we're dealing with Hood now, at page 694. Do you see that's an invoice in respect of the Physics Building at Sydney University?---Yes.

And the scope of work is mechanical engineering design and documentation for the ventilation system of the basement of the above site?
---Yes.

And it's in the sum of \$4,120?---Yes.

If I could ask you then to have a look at page 788. Do you see that that's an invoice of 4 August, 2007, about six months later?---Yes.

40 And if refers to the same building?---Yeah.

And it's precisely the same scope of work?---Yes.

Now, do you say you did the design and documentation for the ventilation system of the basement twice in that building?---It wasn't design and documentation. You asked me this question previously and my response was I've done redesign, not design, redesign and provided alternative solution which was to his best interests.

But, Mr Faysal, the two invoices that I've shown you at 694 and 788 - - -?
---Yes.

- - - describe an identical scope of work, word for word?---Yeah.

Well, why do you think that you came to create two separate invoices describing the same work?---I did not create these invoices, these invoices were right.

10

These invoices were?---Right, for works which I carried to Wayne Hood.

But they're describing exactly the same thing. Do you say you twice did this mechanical engineering, call it a redesign and documentation for the ventilation system of the site?---You are asking me about something that goes back to five years ago, I don't remember whether it was twice done or whether it was done on another one. I don't know.

20

The fact is you can't explain how according to your invoices you've come to do exactly the same job twice six months apart, can you?---No, I have no explanation, no.

Commissioner, is that a convenient time?

ASSISTANT COMMISSIONER: Yes. We will take a 15 minute adjournment.

SHORT ADJOURNMENT

[11.29am]

30

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

MR DOWNING: Mr Faysal, just before the break I took you to some Hood invoices showing identical work at the Physics Building at Sydney University?---Yes.

40

Can I ask you now to have a look at page 697. Do you see that's a 2 May 2007 invoice to Rega in respect of the Monte Sant' Angelo Mercy College?
---Yes.

Showing a description of work of provision of ventilation documentation and controls for the above site as discussed?---Yes.

Can you then look at page 805 and do you see that's an invoice of 2 October '07 some months later in respect of the same job and with precisely the same scope of works?---Yeah.

Can you just, can you explain how you came to according to these invoices have sent out bills for the same job twice some months apart?---It's the same two, the best of my recollection that there was two stages, two projects there at the same site.

Well, Mr Faysal, there's invoices you have rendered where you've done stage one and stage two that say stage one and stage two haven't you?
---Yeah.

10

This doesn't say anything like that it's just word for word identical?---That's right because they two different projects these are not two stages. When you describe two stages it's two stages for the same project. When they are two different projects for the same site they are separate projects.

What were the separate projects at Monte Sant' Angelo Mercy College?
---Sorry?

20

What were the separate projects that you did? Because looking at this it simply says provision of ventilation documentation and controls, the above site is discussed?---Yes.

So what were the two different projects?---One was a different building the other one was for the ventilation louvers.

Do you say that both of them were the ventilation documentation in controls, that is the work that you did?---Sorry, I didn't get your point.

30

Well both of these invoices describe word for word the same scope of works it doesn't refer to different buildings it simply says provision of ventilation document, documentation and controls for the above site as discussed?
---Yes, because the advice which I gave is on two different sites and that's the invoice which I was told to provide.

I'm suggesting to you that that's just not the truth?---It is truth.

And that the reason that you've done two identical invoices is because these were made up to try and mask payments?---I disagree.

40

You recall on 3 August 2007 you deposited \$4170 for Mr Hood, that appears at page 788?---Yeah.

I'm sorry that's the invoice. The, the deposit appears at 797?---Yes.

Do you see that deposit of \$4170?---Yes.

Now the only invoice that you ever issued to Hood in that amount is the one that I just took you to page 788?---That's right.

But do you see that that invoice was dated 4 August 2007?---Yes.

Can you explain how you came to deposit a cheque the day before your invoice seems to have been created?---Always happens, the dates are irrelevant.

What, sir?---It always happens, the dates are irrelevant.

10 Which dates, the dates on the deposit or the dates on your invoice?---No, the date on the invoice.

So that might just be made up?---It's not made up.

Well how do you - - ?---He paid me, he paid me and the second day he asked me give me the invoice and I gave it to him.

20 See I'm suggesting to you the reason that there's a discrepancy here is again it was a payment you asked him to make and you then tried to cover by creating an invoice?---I disagree.

And do you see that on that invoice that Mr Hood's changed the figure, he's crossed it out and changed it to \$4650 as agreed?---Yeah.

Now - - ?---It's his handwriting.

Do you have any recollection of a discussion about that?---No.

30 Can I suggest to you that you asked him to change that amount from 4170 to 4650 because you wanted to try and fit in with the deposits that were made on 5 February 2008. I'd ask you to look at page 799?---I disagree. I didn't ask him anything.

Now if you look at page 774 that's your invoice to Cady of 23 February 2007 referring to mechanical design, mechanical engineering design and documentation. Sorry I'll just wait for that to come up?---Yes.

40 For the ventilation system of the Sydney University Aeronautical Lab?
---Yes.

Have you seen Mr Duffy's statements that have been provided in the course of these, of this inquiry?---No.

Mr Duffy has indicated in his statement that the Sydney Uni records disclosed that there were no mechanical ventilation projects in that building in or around February 2007. Do you maintain that you did the work?---I did the work for Michael Cady. He told me to provide this invoice and I

provided it to him. He may have allocated to that project, he has done some other works I don't know.

And I'm suggesting to you that your evidence is a lie and that what in fact you did was ask him for money and that this was created - - -?---I disagree.

- - - based on some information he gave you about work he was doing to mask that payment?---I disagree. I carried out the works for Cady.

10 Can I ask you to have a look at page 789. Do you see that that's the invoice to Mr Hood in respect of testing and commissioning of the fire system for the site including fire certification at the Sydney University Mechanical Engineering building?---Yes.

And do you recall on the last occasion you gave us some evidence about how you attended and you did the testing certification over the course of a weekend?---Yes.

20 You note that Mr Hood has made a notation on the document that it's for prospective tendering purposes?---It says note not my note.

You say that's just wrong?---Exactly. I don't know why he wrote it. that Hoods contract for this building was for general building work only? ---Yeah, what does this mean?

30 You're aware, again you may or may not have read Mr Duffy's statement, but are you aware that Mr Duffy says in his statement that Hoods contract for this building was for general building work only?---Yeah, what does this mean?

And that Mr Duffy's indicated that Hoods did have a contract to do fire system work in a different building, that is the Physics Building, but not this one?---I don't know, I didn't see, I didn't see his - - -

Well do you maintain that you did the work as described there?---I did the work for Wayne Hood, yes.

40 And I'm suggesting to you that the reason for this discrepancy between what you say and Mr Duffy, Mr Duffy's evidence is that you created this document again based on limited information from Mr Hood to try and mask your payment?---I disagree.

Now if I could ask you to look at page 804, that's your invoice to Rega?--- Yes.

Suggesting that you did mechanical engineering design and documentation for the CO monitoring system modifications for Westfield Liverpool?--- Yes.

Dated 11 September 07?---Yes.

And you told us on the last occasion and please tell me if you agree or disagree that what it involved was marking on the plans where the CO sensors needed to go?---That's right.

10 Now are you aware that Mr Leighton, well first of all you're aware that Mr Franjeh says that this is a fiction, that you never did that work?---I disagree.

You're aware that Mr Leighton who used to work for Mr Franjeh has given a statement and what he says is that the particular work that you've described doing, that is marking on the plans where the sensors went, was something he did?---He may.

Do you maintain that you did the work?---I've corrected what he did because what he did was wrong and I'm the one who corrected it.

20 So you didn't tell us that on the last occasion did you?---No I'm telling you, you ask me now I'm telling you now.

Well - - ?---If you asked me last time I would have told you last time.

30 Are you, you may or may not have seen documents in the exhibit but there are documents from Westfield indicating first of all and I'll ask that you have a look at the contract document, I'm sorry it's a large document but I provide a copy for tender and also for the parties. There are numbers in the top right corner, can I ask you to have a look at page 77? Do you see that that's the document heading out the contract particulars in the contract that Rega Controls had with Westfield?---Yeah.

And it indicates a completion date for the works of 14 July 2006?---Yeah.

40 And could I ask you then to have a look at page 1135 in the second volume? Sorry I might just take a moment. I'm sorry, I'm being informed by Mr Stitz that he doesn't have that document. I might ask that, I might see if we can get copies. I'll have to do this in a different way and we might see if we can get copies later but Mr Faysal I ask that you accept from me that in August and November 2006 there are emails from, first of all an email from Mr Leighton to Westfield indicating that in August 2006 that the last of the censor locations had been submitted and asking whether Westfield believed they were acceptable?---Yeah.

Do you still maintain that you did the work - - ?---Yes.

- - - as described in your invoice?---Yes.

In November 2006 there's an email from Mr Anderson at Westfield to a Mr Faysal but also Mr Leighton seeking confirmation about certain aspects of the verification or indicating, I withdraw that, indicating that the CO system had been commissioned yesterday and just asking about a couple of issues that needed to be dealt with. That's in November 2006?---Yeah.

Do you maintain that you did the work?---Yes.

10 And your invoice in respect of that work is in September 2007. Can you explain for me why you believe you were submitting an invoice then?
---That's the date of issue of the invoice.

When did you do the work?---When it says there, late '06 and some of it were early '07 to correct the operation of the fan regarding the CO sensors.

You're aware, aren't you, that Mr Leighton says that he had no dealings with you in respect of this project?---That's right.

20 So knowing that and knowing that Mr Franjeh says you did nothing you maintain that you did the work?---I did it for Ramsey, not for James.

Now, do you recall that Mr Franjeh gave evidence earlier during the inquiry that when you asked him to give you that \$35,000 you said you wanted to buy your wife a car?---(not transcribable)

Were you here for that evidence?---Sorry?

Were you here for that evidence?---Yeah, yeah.

30 Do you recall him giving it?---Not, it's irrelevant.

Well, can I ask you this: that was in about 2007 because we know you deposited \$35,000 made up of two cheques from Rega on 11 October, 2007?---That's right.

And Mr Franjeh gave evidence that you asked him for \$35,000 in about October 2007 saying that you wanted to buy your wife a car?---I disagree.

40 All right?---He paid me these cheques, that one cheque or two cheques, I don't remember, based on the invoices provided to him which he asked me to prepare.

All right. Now, it's the case isn't it that in about late, mid to late 2007 you had a car?---Yes.

And you were driving a Ford Falcon XR6?---Yes.

Can I ask in that period around October 2007 did your wife have a car?

---Sorry, in which period?

About October 2007, well, let's start with September?---Yeah, she had a car.

September 2007 did she have a car?---She had a car, yes.

Do you recall that on 16 October, 2007 you paid \$49,700 for a new silver Ford Territory - - -?---Yes.

10 - - - which you registered in your name as the primary owner and in her name as the secondary owner?---That's right.

So that it would appear that five days after the cheques from Mr Franjeh were deposited into your account you bought a Ford Territory XR6 - sorry, I withdraw that, a Ford Territory?---Yeah.

And that's a seven seater car?---Yes.

I take it that was a car for your wife to use because you've got five children?
20 ---That's right, that's right.

So in fact you did buy your wife a car - - -?---Yes.

- - - five days after the cheques were deposited?---That's right but I didn't say that Ramsey gave me the money to buy the car.

Right. I'll show you, sorry, first of all, Commissioner, I should deal with that Westfield contract, I'm not sure that I did tender that and I better get that as an exhibit.

30 ASSISTANT COMMISSIONER: Yes. The Rega Controls contract with Westfield will be Exhibit 31.

#EXHIBIT 31 - REGA CONTROLS CONTRACT WITH WESTFIELD

40 MR DOWNING: And I'll now ask that Mr Faysal have a look at a particular RTA inquiry document and I'll distribute copies. Do you see that is a document which indicates on the basis of an RTA inquiry that you purchased and registered a vehicle, a Ford Territory - - -?---Yes.

- - - that cost \$49,700 - - -?---Yes.

- - - and that the date of, well, the date of acquisition is noted at 16 October, '07?---I agree.

Showing you as the primary registered owner and your wife as the secondary registered owner?---Yes, I agree.

I tender that document.

ASSISTANT COMMISSIONER: Yes. That RTA inquiry document will be Exhibit 32.

10 **#EXHIBIT 32 - RTA ENQUIRY DOCUMENTS**

MR DOWNING: Now, at this point I'd ask that you - I withdraw that. Do you, do you recall a conversation on 23 May, 2012 when Mr Franjeh rang you and asked for a meeting because he wanted to talk to you about particular payments that he'd made to you?---I don't recall the substance of the material but he rang me on a couple of occasions, yes.

20 Do you recall, well I'm suggesting this is a conversation on 23 May, do you recall actually meeting with him in his office the following day and going through with him the payments that he'd made and discussing how you might describe what they were for when it came to evidence with the Commission?---I met with him the second day, not in his office, in (not transcribable) office and we didn't discuss anything related to the invoices.

Can I ask that you have a listen to a recorded conversation, I'll provide the transcript and have copies distributed?---Yes.

30 **RECORDING PLAYED** **[12.06pm]**

MR DOWNING: Now - - -?---Yeah.

- - - Mr Faysal, having heard that, do you recognise that as a telephone discussion between yourself and Mr Franjeh?---Yeah.

In Arabic?---In Arabic, yes.

40 And Mr Franjeh rang you and according to the translation in the transcript indicated - - -?---Yes.

- - - that he'd gone through his records and all that he could find for you was 17,700 and 17,300?---Yes.

And they were the two amounts that you deposited from Rega on 11 October 07 weren't they?---That's right.

And Mr Franjeh has in the course of that conversation indicated to you that he wanted to meet with you to talk about those?---That's right.

And do you recall on, this is in the transcript of the evidence from Mr Franjeh page 84 and 84, he says that you've then met the following day, sorry met that day, I withdraw that, and had a discussion where you told him look you should just stick to the invoices?---I disagree, I didn't talk to him about it.

10 Well what do you say the discussion with him was about?---I rang him this same day and I ask him I lost all the documents of the invoices which I produced to you for the works between 2006 and 2008, and I would like to have a copy of these ones and that was the subject of this discussion. And I gave him the invoices, he gave me a copy of the invoices which I requested.

I'm suggesting to you that the evidence you're giving is dishonest and that in fact what happened was Mr Franjeh called you because he was concerned after being asked to produce documents by the Commission about how he would explain those payments and that he asked to meet with
20 you and that you then met and discussed exactly that topic, how to describe those payments in a way that would be satisfactory?---I disagree, I disagree. I requested this and there's an email on the day I believe which I sent to him from my email to him requesting these invoices and that's why he panicked and then the second day he gave me a copy of these invoices, that's what I say.

Mr Faysal, why would he panic if the payments were just genuine documents?---I don't know whether he submitted them in his tax returns or not, I don't know why he's in panic mode.

30 Well you say - - -?---He was in panic mode I wasn't in panic mode.

All right. Now you gave some evidence on the last occasion about corporate gift items that you claim that you supplied to Rega on, and that was when you gave evidence on the 11 September?---Yes.

Do you maintain today that you supplied all of the gift items as described in the various invoices?---Yes.

40 So that's - well can I suggest to you that the evidence that you gave on the last occasion and the evidence you're giving now is a lie and it's a concoction designed to try and again cover payments that were made to you after you requested money from Mr Franjeh?---I disagree. I did not request money from Mr Franjeh.

Now you maintain then you provided shirts and hats?---I provided boxes for him, yes.

Well you provided according the invoices shirts and hats?---As per the invoices, yes.

Hats?---Yes.

Pens, mugs?---Yes.

Notebooks?---Yes.

10 You maintain you provided all of those things?---Exactly.

That's a lie isn't it?---I disagree.

It's the case isn't it that you cannot now produce a single item of any of those gift items in order provide to the Commission?---Sorry? I have to - - -

You can't produce a single one of those items can you?---No. We don't have them.

20 It's the case also that you cannot produce a single document in terms of an order, an invoice, a tax invoice from anyone of the suppliers of those materials or those goods that you claim were provided to Mr Franjeh?
---Agree, I don't have any documents to produce.

We're talking about goods that you say you supplied about five years ago?
---That's right.

Well they weren't stored on your computer were they?---That would be right.

30 Well no you - - -?---The crash 2008 how would it be existing on my computer when my computer crashed 2008?

Mr Faysal, each of the items you say you supplied the hats, the mugs and things were things that were obtained by a supplier, from a supplier, correct?---Yes.

40 And the supplier would have provided an invoice to reflect the payment that you had made for each of those items?---I didn't purchase them I told you this, I was a postman I delivered the material to Ramsey's office after hours.

So is this the case that you're not aware of whether any invoice was ever obtained from by NA & CW Investments for any of those items?---No.

Now - - -?---I told you last time the majority of the items were existing in my house after we closed our shop at Hurstville which used to be operating as (not transcribable)

Well I thought on the, the last occasion you said that some of them were items that you still had like mugs but others were items that you had to order?---No, I said some I didn't say all.

For instance you didn't have lots of pairs of pants sitting around - - -?

---That's right.

- - - in the gift shop did you?---That's right.

10 Well even in respect of items you say that were already lying around you had to get them monogram in some way to put the logo for Rega Controls on didn't you?---We didn't put logos I told you.

So there were no logos on any of the items?---I didn't say there was no logos I said we didn't put it.

Well - - -?---I did not put it I told you I delivered boxes for him after hours.

20 But you cannot produce a single invoice or tax invoice from anyone in respect of supplying items like pants or shirts or putting logos on any of those items?---No. If you pay cash you won't get an invoice.

Well, Mr Faysal, you were selling these items in a course of the business NA & CW Investments?---Yes.

You issued invoices through that name?---Yes.

30 Presumably you would want to get some credit for the cost of actually purchasing the items or having the monograms so that again for the purposes of your tax return you'd be able to actually reduce against the income you'd receive the expense that you'd incurred?---That's not the case and in my case was, was a corporate gift case.

Well why would you not want to be able to set off against the income you received the expense you'd incurred?---I can't offset it with the income I receive. My income is purely mechanical services and I can't declare pants and shirts under my mechanical services. How can I justify to the tax man putting the pants and shirts and hats under my mechanical services engineer.

40 You were prepared to justify it by issuing invoices in the name of NA & CW Investments?---Ramsey requested me to provide these invoices and it was covered because I had losses 2002 when we closed Sweet Moment business, \$127,000, you can check it with my accounts at the time from my accountant.

So is your evidence that you didn't care about claiming the cost of these items because you already had losses to set off against?---Exactly.

And - - ?---And these losses are still carried over till this date.

It's the case, isn't it, that your tax return for 2007/2008 for the NA & CW Investment Trust don't identify any expenses in relation to the cost of purchasing or monogramming any of these items?---That's right.

10 Now, can I suggest to you that you came up with the idea of claiming to have supplied corporate gift items to Mr Franjeh because, or to Rega Controls, because the payment that you received on 11 October was a substantial payment wasn't it, \$35,000?---I didn't ask him anything, he asked me to produce these invoices.

20 Well, can you tell me whether you agree or disagree but did you have a concern that if you'd sent out invoices in respect of engineering works at or around that time that came up to \$35,000, that might actually look like a little bit too much work for someone who was a full-time employee at UTS at the time?---I was a full-time employee and this is not a, I've never compromised my outside work compromise my performance during the time I served with the University of Technology Sydney. Even if I produce \$150,000 every year it won't have any effect on my performance at UTS.

Mr Faysal, the invoices that you have provided in respect of gift items are a complete fiction, aren't they?---I disagree.

You produced them knowing they were false?---Sorry?

You produced them knowing they were false?---I didn't produce them, that they were false. I produce them at the request of Ramsey.

30 And the evidence you're giving at the Commission now is a lie about those invoices?---I disagree.

Now, it is the case isn't it that you were doing work for Webster Wagner Engineering between 2008 and 2011?---That's right.

And I suggest to you that you knew at the time that it was impermissible for you to do work for a contractor at the University?---No.

40 And certainly when you had the counselling session in mid-2010 you were told explicitly by Mr Rabbitt and Mr Woods that you could not do any work for contractors, that is University contractors?---I disagree.

So you say, do you say you were told anything about conflict of interest during that session?---No.

Nothing?---Nothing.

Did you see the document that was produced yesterday, the counselling document?---Yes, I've seen it yesterday.

And do you see that there's a reference in there to there being some counselling in respect of the issue of conflict of interest and outside work? ---I deny that this matter was discussed to me at that meeting on 2 July, 2010. That paper that, I did not see that paper with neither Mr Rabbitt nor Mr Wood at the time of the meeting.

10 So do you say that you were told nothing about only doing outside work that didn't result in a conflict of interest with the UTS work?---The only matter discussed at the time was outside work application which I have to submit and I submitted after one month.

That's not an honest account of what was discussed is it?---It is honest, I'm saying the truth.

Now, can I suggest to you that the reason you didn't identify Webster Wagner Engineering by name in your outside work applications in 2010 and
20 2012, despite the fact that you were doing work for Webster Wagner, was because you knew it wasn't permitted?---I disagree.

Now, when you did your work for Webster Wagner Engineering, that would often involve work during ordinary work hours, wouldn't it?---Not necessarily. Not necessarily. Majority of the works I carried over after hours and during Saturdays and Sundays.

But there were a number of site visits and meetings you attended that involved work in work hours?---When I wasn't at the UTS.
30

Do you accept that - well, I withdraw that. Do you say that that was time that you had off in lieu?---There is some times times in lieu and you can see from my records that majority of the works which was carried is for State Street Bank and it was between the period January '10 till July '10 when I was suspended. I wasn't at UTS, UTS decided to send me home, stay home for nine months. I stayed home and I carried work.

Well there was that period where you were suspended in 2010 but you did quite a bit of work outside of that period as well didn't you?---Yeah. I'm
40 telling you that's what I did because I was at home, what do you want me stay at home do nothing?

No, I'm talking about the period outside of your suspension?---Outside my suspension.

You did quite a bit of work for Webster Wagner - - -?---Yes.

- - - outside of that period didn't you?---Can you please mention to me which period and I will answer?

Well you know the period of your suspension?---Yes.

You're aware aren't you that you did quite a bit of work starting in 2008 right through until 2011?---Yes.

10 And some of that work was during regular work hours?---I disagree.

So you never attended a single meeting or site visit?---I attended site visit when I had time in lieu with the knowledge of my supervisor.

I suggest that you never told Mr Rabbitt anything about work you were doing for Webster Wagner Engineering?---I disagree.

20 Now do you understand that, or tell me whether you agree or disagree with this, but there might be a conflict of interest involved in you wanting to incur as much time in lieu as possible so that you could then do paid outside contract work on those days?---No.

Do you think there might be a conflict with that?---No.

Now I wanted to ask you some questions about your travel?---Yes.

30 It's the case isn't it that you did not tell Mr Rabbit or anyone at UTS about the fact that you were undertaking travel that was being paid for by Targetti or Rega and on one occasion Wilkhahn?---I disagree. I told them in some instances, some instances I didn't tell them but the Targetti ones I told them, I told my supervisor verbally, he didn't ask me to submit any forms so I didn't submit a form.

40 On the last occasion you gave evidence isn't it the case that you told me that on each and every occasion that you undertook a trip you explicitly said this is a trip being paid for by Rega or Targetti?---Not the ones by Rega. The ones paid by Rega, these were personal, 2006 that was my family. I may have done a mistake with previous, I am happy to correct it now. I didn't tell Mr Rabbitt about the 2006 and 2008 personal family trips to my home country.

Mr Faysal - - -?---Because this is personal, it has nothing to do with my University work.

Mr Faysal on the last occasion this is a transcript - - -?---Yes.

- - - in your compulsory examination transcript at 565?---Yes.

At about line 21 I asked you, you say on every occasion you've explicitly said to him, that's Mr Rabbitt, in words this is being paid for by Rega or Targetti and your answer was yes. Is that not correct?---I'm not saying it's not correct. I withdraw the Rega one, I maintain the Targetti one.

So you now say that what you told me about Rega last time wasn't correct?---That's right, it wasn't correct.

10 So you never told Mr Rabbitt about the fact that Rega was paying for you to do quite a bit of travel?---That's right, I didn't tell him about the 2006 and about the 2008 because this is a personal trip.

Well - - -?---It has nothing to do with my work at UTS or anything.

Lets go through the various trips that you and your family members undertook at the expense of others?---Yes.

20 It's correct isn't it that in April and May 2006, we'll start with the Targetti funded trips?---Yes.

It's correct isn't it that in April and May 2006 you travelled to Europe and Lebanon and Targetti paid for that?---Sorry, can you remind me which one?

Yeah, April and May 2006, you - - -?---Yes, yeah, I recall this. The one which you were showing yesterday yeah? I've done it.

And Targetti paid for that in it's entirety?---Yes.

30 And that was a trip that you and Mr Karpel went on?---That's right.

And it's the case isn't it that you had a side trip to Beirut during that?---Yes, yes.

And that was also paid for by Targetti?---Yes.

You didn't disclose the fact of that travel being paid for by Targetti to anyone at the University did you?---I told Mr Rabbitt, my supervisor, that I was going with Targetti to that trip.

40 And do you say, on the last occasion when you gave evidence you said that each time that you would tell Mr Rabbitt about the travel he said things like don't tell me I don't want to know, and put his hands up to his ears?---Exactly.

Is that what occurred?---Yes.

It's just a nonsense isn't it Mr Faysal?---It's not a nonsense.

It's a lie?---It is not a lie, it happened.

Okay, well that's the first trip that Targetti funded for you. The second trip that Targetti funded appears to be in April 2007 again to Europe?---Yes.

And do you recall that was a trip - - -?---Yes.

- - - that you and Mr Karpel went on?---Yes.

10 And again it was paid for in it's entirety by Targetti?---Targetti, yes.

And I suggest to you that you didn't mention that, that the fact that you were doing the travel at the expense of Targetti to anyone at the University?---I told my supervisor at the time verbally.

And did he again say I don't want to know don't tell me?---That's right.

That's a lie isn't it?---I disagree.

20 All right. The next trip that Targetti paid for, for you, was in 2009 which involved you and your wife going to New Zealand, do you recall that?---Yes.

Did you tell anyone at the University about that?---I didn't tell anyone.

That one, because it was - - -?---That's personal.

- - - personal travel?---Yes.

30 All right. November 2010 you travelled at the expense of Targetti to China?---Yes.

And on that occasion it was you and Mr Karpel and Mr Phillips?---Yes.

And Targetti paid for that?---Yes.

And I'm suggesting to you that you didn't inform anyone at the University about that?---That's right.

40 You say you did?---I didn't.

You didn't on that occasion?---No.

In April 2011 you travelled at the expense of Targetti to Europe again?---Yes.

Sorry I should go back. In April 2008 when you undertook the trip to Europe your wife went on that one as well didn't she?---Yes.

And that was paid for by Targetti?---Yes.

And indeed you had a side trip with your wife to Venice?---To Florence, Venice and Vienna.

And Venice had nothing to do with lighting did it?---It has to do.

10 Well wasn't it just a nice bit of a holiday during the course of the trip?---It wasn't a holiday, I went and visited the Moran lighting factory accompanied with someone from Targetti in Florence.

Florence, but Venice is nowhere near Florence is it?---It's not near it, no.

So what were you doing in Venice?---I told you, I visited the Moran lighting factory in Venice.

20 Sorry I thought you said that was in Florence?---No, in Venice. In Florence is the Targetti factory. I flew from Europe from Germany to Florence, attended two days in the Targetti lighting factory in Florence. From there I went by train to Venice to, with Targetti in Italy, not Targetti Australia, to go to the Moran lighting factory, that's another factory for Targetti in Venice.

Did your wife catch the train with you as well?---Yes.

And she stayed in the hotel as well?---That's right.

30 So who do you say from Targetti came with you to Venice?---Some, I don't remember the name, he's from Targetti Florence.

You can't name the person?---No, there's a lot of people there, I don't remember all their names.

You're making this up aren't you?---I'm not making anything up, that's the truth.

All right. Well let's go back. April 2011 - - -?---Yes.

40 - - - Targetti pay for you to go to Europe again?---To Milan, yes.

And that was with Mr Karpel?---Yes.

And Targetti paid for the travel?---That's right.

And then in April 2012 that's this year - - -?---Yes.

- - - Targetti had booked another trip for you for Europe?---Yes.

Including a side trip to Lebanon?---Yes.

All of which had been booked and the intention was they would pay for?---
Yes.

But it got cancelled?---Yes.

10 And that came about when you lost your job at the University?---I cancel it
yes.

Now you heard - - -?---Excuse me, let me correct this point. It wasn't
cancelled because I lost my job at the University. It was cancelled because I
was sick on that date.

You were sick?---Yes.

20 In any event you (not transcribable)?---I gave them a medical report and I
told them I'm unable to. If I wasn't sick I would have gone with them.

Subject to them still being interested in taking you?---I think they would be
interested yes and I may go with them next year also.

Right. Now in terms of Rega travel, in June 2006 it's correct isn't it that
you and your wife and three of your children travelled to Lebanon at the
cost of Rega?---Which date please?

June 2006?---Yes.

30 And that was, sorry before I move on to the Rega travel, it's correct isn't it
that on each and every occasion you travelled at the cost of Targetti it was
always business class travel?---That's right.

And very nice hotels?---Accommodation they provide.

Nice hotels?---Nice hotels, nice hotels or not nice, yes. It depends how
much do you really describe nice.

40 All right. Going back to Rega, so you've agreed with me in June 2006 Rega
paid for you and your wife and your three children to travel to Lebanon and
return?---That's right.

And Rega paid for that?---Correct.

August, in the period August to October 2007 - I withdraw that. Your wife
has a sister living in Lebanon, is it under the, whose name is Takla
Elkassouf?---That's right.

And do you recall that in August 2007 or August to October - - -?---Yes.

- - - Rega arranged for and paid for Ms Elkassouf to travel from Lebanon to Australia and return?---Rega did not pay for it. They made the arrangement, the booking was Tadros Travel, I paid for it.

Do you recall that Mr Franjieh says he paid for it?---I paid for it.

10 Do you have any records to demonstrate that?---I paid cash for it and the document says that it was paid cash and I paid for it.

You say you paid?---I paid, yes.

Did you ask him to organise that for you?---Yes, and he made the arrangement with Tadros Travel, he was (not transcribable) that's all.

All right. Now, in June and July 2008 it's correct isn't it that - - -?---Yes.

20 - - - Mr Franjieh through Rega organised for you and three of your children to fly to Beirut and return?---In which date please?

June and July 2008?---That's right.

And he paid for it?---Yes.

And in October 2008 do you remember that you flew to Europe - - -?---Yes.

- - - via Lebanon - - -?---Yes.

30 - - - and for that trip Rega paid for your flights?---That's right.

And Wilkhahn organised and paid for some of your hotels?---That's right.

Wilkhahn being another contractor to the University?---That's right, I was invited to attend the Orbitrek show where Wilkhahn was attending there and I went with among 45 other architects from Sydney, yes.

40 And in February and March 2010 do you recall that you travelled to Lebanon and return?---Yes.

And Mr Rega paid for that?---No, I paid for it.

You say you paid for that?---I paid for it.

In June to August 2011 your daughter Amanda travelled to Madrid for a Spanish language course?---Yes.

And Mr Franjeh paid for the, well, through Rega Controls paid for the airfares?---That's right.

And also paid for the language course?---Yes.

And is it correct also that Mr Jurgeleit from Airin Services gave you a couple of nights stay at a hotel in Canberra?---I recall this but it was back 2006, 2007, I don't recall.

10 But he gave you a couple of nights accommodation for your and your family that, that you didn't pay for?---I didn't pay for it, yes, he gave it to me, it was one night accommodation I recall in Canberra. He didn't pay it to me, he got it for himself, he can't go with his wife so he offer it to me and I accepted it, yes.

Now, it's correct isn't that some of your travel, and I'm speaking specifically about the travel that was paid for by Rega, was leisure travel for you, family holidays or to visit family in, in Lebanon?---The 2006, 2008, yes.

20

And it's correct isn't it that you told no one at UTS that it was being paid for my Rega, you've agreed with that already?---I agree, yes.

Do you not see that it might put you in a position of conflict to have Mr Franjeh through Rega Controls paying for travel for you, a UTS employee who was some input into the procurement process at a time when he is actively involved in tendering and quoting for work?---I disagree.

30 So you see no difficulty with that at all?---No, I can differentiate between myself, Nabil Faysal who is employed by the University of Technology and Nabil Faysal personal life and Nabil Faysal business life.

You understand that conflict of interest involves both actual conflicts and potential conflicts?---Exactly, I understand it, yes.

40 Do you accept that to a fair-minded observer looking at your conduct when it came to providing input into particular contracts that Rega might be bidding for there might be a bit of a concern that where you were receiving quite a bit of paid travel from Rega you might have some reason to think of them a little bit more favourably than one of the other contractors?---If I had input to that tender but if I didn't have any input I don't see any conflict of interest.

So you see no conflict at all?---No.

All right. Now that travel that Rega paid for with the exception of the October 2008 was all personal travel, it had nothing to do with trade shows or trade fairs?---That's right.

Do you not accept that asking Mr Franjieh to pay for that travel was asking him to in effect give you a valuable gift or benefit?---Sorry, I didn't get the point?

You asked Mr Franjieh to pay for the travel didn't you?---No. He pay it to me in lieu of on-call service I provided to him.

On-call service?---Yes.

10

So what - - -?---Which is services I provide to him.

Are you suggesting that you were always at the ready to do whatever engineering work he required?---Over the phone, yes.

So that - - -?---Over the phone, after hours, Saturday, Sundays, I'm always available to provide him assistance with engineering solutions.

20 So was this explicitly agreed with Mr Franjieh that you would be on-call to provide a 24 hour emergency engineering service?---I was always on-call 24/7 even for the University of Technology Sydney also.

And you say that you'd reached an agreement that he would pay for travel as a way of compensating you for being on-call to provide engineering services?---That's right.

That is just an utter lie isn't it Mr Faysal?---I disagree.

30 There was no such discussion or agreement with Mr Franjieh?---There was.

All right. Do you not accept that having him pay for this travel was you receiving from a UTS contractor a valuable gift or benefit?---I disagree.

Now Targetti's travel except the trip to New Zealand and your side trips to Lebanon in '06 and I'll stop there. But that travel was ordinarily to attend trade shows or fairs or factories?---That's always my travel with Targetti.

40 And I'm suggesting to you that you didn't tell anyone at UTS that Targetti was paying for that travel?---I paid for the - I told my supervisor for the 2006, 2007, 2008 trip after that I didn't tell him. He doesn't want to hear.

Sorry, after 2008 you didn't tell?---No.

Because you just thought no-one cares?---Exactly. I didn't tell him, I'm telling you the truth, I didn't tell him.

And in 2006, 2007 and 2008 did on each occasion that you told Mr Rabbit that you were taking this travel at the cost of Targetti did he say I don't want to know, don't tell me and cover his ears?---That's right.

That's a lie isn't it?---It is not.

Can I suggest to you that again what you did by accepting that travel from Targetti was placing yourself in a significant conflict of interest?---I disagree.

10

But you were receiving 10s of the thousands of dollars of business class travel and five star hotels from Targetti in circumstances where you had involvement in procurement including in respect of lights?---I never comprise the University interest in any of my trips with Targetti.

So you say that because you knew you could always be fair minded in the way you dealt with things it didn't matter that you're actually receiving all of this paid travel from a person that was competing for University work?---I can challenge anyone from the University of Technology if they can get the cheaper light fittings and what I used to secure for the University of Technology.

20

I understand that?---They got the latest state of art cutting edge technology at the cheapest prices.

I understand that's what you're saying that you're challenging to do better but it's the case isn't it that in response to my question you're saying you could always yourself be comfortable that you would be fair minded in deciding who to recommend for contracts so it didn't matter that you're receiving these substantial benefits from Targetti?---I was always fair with everyone.

30

So, but answer my question, please?---Yes.

Because you believed that you could always be fair with everyone you took the view that it didn't matter that you receiving these substantial benefits from Targetti?---They were not substantial benefits this was to the best interest of the University. I resolved the problems in lighting around the University.

40

You say it was in the best interests of the University but it was also substantially in your interests wasn't it to have business class travel and five star hotels paid for you by a University contractor?---Why should I travel for four days to Europe and come back?

Mr - - -?---Just for - what's the benefit of sitting down or lying, either sitting on a chair or lying in a bed, in an airplane just to go four days there and come back to Sydney. What's the benefit to me?

Mr Faysal, on any of the trips that you've paid for yourself have you bought yourself a business class fare?---Yes.

Most of the trips that you've paid for involve you and your family travelling economy class haven't they?---That's right.

10 So - - -?---With my family, but when I travel alone I used to travel business class. And I explained to you the 2009 when I flew to New York and to Toronto and Canada I purchased an economy class ticket and upgraded it into business class.

Mr Faysal do you say that in each of these trips you undertook where Targetti was paying, you took the view that what you were really doing was furthering your work at the University?---Sorry?

Do you say that each of these trips you undertook at the expense of Targetti - - -?---Yes.

20 - - - you took the view that what you were doing was furthering the university's interests?---Exactly.

And that what you were doing was really part and parcel of your work at the University?---Yeah.

30 If that were truly the case on each occasion that you went you wouldn't have applied for personal leave or annual leave would you? You would have said I want to go on a study leave trip or it's indeed part of my activities so I'm not taking leave at all?---There's a policy at the University we can't accumulate more than 80 hours per year of annual leave. I had to take my annual leave.

Can I ask you to look at page 947 at the second volume?---Yes.

Do you see that in respect of the trips in April and May 2006 you've took annual leave?---Yes.

In July 2008 you took annual leave?---Yes.

40 October 2008 you took emergency leave?---Sorry, which one?

October 2008 you took personal leave for an emergency?---October 2008?

Yes, 20 to 24 October 2008, it records personal leave absence, reason emergency?---I don't recall I applied for this, I applied for annual leave.

Well that's during the period where you were in Europe?---Yeah.

For the Orbitrek conference isn't it?---Yes.

And in September to October 2009 you again took annual leave?---It's all annual leave yes.

Now if you were genuinely doing this travel that is for the various trade fares in Europe or to factories in China as part of your work you would have asked first of all for the leave not to be annual leave but at most to be study leave?---I wasn't asked, I was asked to submit an annual leave and I submitted annual leave.

But if you're going on University activities why would you need to take leave at all?---I didn't get this point.

Well you're telling me that what you were doing in this trip was furthering your job at the University?---It was for the benefit of the University.

But you told me before and tell me if I misunderstood your answer, that this was part and parcel of your work at the University, this travel?---Exactly that's what I've said. I went there, I negotiated with manufacturers and suppliers and resolved technical issues in the lighting around the University.

Well if that were truly the case you would have put in an application saying look I'm going on this trip to resolve technical issues to deal with lighting issues that involve lighting we're actually buying and installing and it's a work trip, I don't need to take leave. You would have told the University that wouldn't you?---I submitted this at the request of my supervisor because as I mentioned we cannot accumulate more than 80 hours of annual leave. I had to use my annual leave to go to this trip otherwise I will lose them.

So you say that otherwise you would have asked the University to regard it as part of your work but you just took the annual leave because what, Mr Rabbitt told you you had to?---If he asked me I would, can you check, go back to the 2004 what was written on my trip which Mr Rabbitt yesterday mentioned about my business trip to the United States? It's also annual leave.

Mr Faysal, I'm not interested in, Mr Faysal the 2004 trip involved you actually going to inspect particular chillers that were to be installed at the University?---Yeah.

Correct?---That's right.

None of these trips involved you looking at any particular equipment that the University had ordered and was on its way to be installed did it, did they?---They were for lights, what's the difference? Light is an equipment or a chiller is another equipment. The only difference is the size.

So what I'm suggesting to you is the big difference between your trip in 2004 and all these other trips is you actually told the University about the fact that it was being paid for by a contractor in 2004?---I told my supervisor.

10 Mr Faysal if these trips were truly trips that were part and parcel of your work at the University you would have asked for the University to pay for them wouldn't you?---It's similar to the 2004, the University said (not transcribable) the contractor is paying for it.

But if you were doing this trip, any of these trips that Targetti paid for, for the benefit of the University as part and parcel of your work you would have gone to the University and said I'd like you to pay for me to go on these trips it's part of my work, you will benefit from it?---Since the overseas trips started in 2004 it was all paid by contractors, the University never paid anything on my trips.

20 Mr Faysal, the simple truth is, isn't it, that you didn't tell anyone at the University about Targetti or Rega paying for your travel because you knew it was completely prohibited for that to happen?---I disagree.

You knew, wouldn't you, sorry, you knew, didn't you, that if you had gone to the University and asked for them to approve a trip that was being paid for by Rega or Targetti the answer would have been no?---I disagree. I told my supervisor if he didn't want me to go, to leave, I would not go but he didn't tell me don't go when I told him that I'm going with Targetti. With Rega I didn't tell him, that's right.

30 And it's the case, isn't it, that in respect of none of these trips did you complete the UTS gifts and benefits declaration form that appears at page 100 of the first volume of the exhibit?---Sorry, which page?

It'll come up in a moment, page 100. That's the UTS gifts and benefits declaration form?---(not transcribable)

40 Do you recall that I took you to the policy in respect of gifts and benefits before and it provided that anything of value more than \$250 was the, belonged to the University, not to the individual?---I never seen this document.

So you didn't know about this form?---No.

Now, it's correct isn't it, that in early 2012 Mr Franjeh gave you an iPad?
---Yeah.

And that occurred, didn't it, after you indicated that you were interested in getting an iPad?---I didn't say I'm interested, I said that I was planning to buy one for myself.

What you were doing, weren't, you, was hinting that it would be very nice if Mr Franjeh might actually take the time to buy it for you?---I didn't ask for it.

10 You hinted at it, didn't you? You're a very subtle man, Mr Faysal, you didn't out and out say buy it for me, what you did was indicated that you were interested in getting one with the intention that Mr Franjeh based on what you knew about him and his past behaviour might go out and get you one?---I disagree with this.

And he did, didn't he, he bought you one?---I disagree that I hinted to him this, no, I had a lot of discussions with Ramsey and he never provided it on that basis.

20 Do you recall that Mr Franjeh gave evidence, this is at page 85 of the transcript about line 30, that you said you were looking at wanted to buy one and that he then bought it for you?---Yeah, this concurs with what I said.

But I'm suggesting to you that you, what you were doing was giving him a subtle hint that you might like it if he would buy it for you?---If you want to consider it that way, that's how you consider, I didn't see it that way, I didn't influence him.

30 Well, when he, when he offered to buy it did you insist, no, no, no, this is something for my use, I'll buy it myself?---He didn't offer it.

Oh, he just went and got it?---He, he went and got it and gave to me.

Did you say to him I'll buy one myself, why should you buy one for me? ---I told him thank you, it's a good gesture.

And he was someone who was a contractor to the University, correct? ---Yes.

40 And that was something that was for your personal use, the iPad?---That's right.

And it's correct isn't it, that you told me on the last occasion that if someone were for instance to - I withdraw that. You didn't tell anyone at the University about the iPad did you?---No.

Is it, do you recall on the last occasion telling me that if someone for instance were to buy you a television, that is a contractor to the University,

and you were to keep it for your personal use and not tell the University that would be corrupt conduct?---That's right.

So this was corrupt conduct?---I disagree.

Well, tell me how an iPad and a TV make a difference in that scenario?
---The difference is the way the, the intention. I wasn't involved with any requirement with Ramsey in 2012 when he gave me that one so I consider it personal, I've done a lot of personal works to him and that's part of the personal - my, my personal life.

So in 2010 you had no dealings with Mr Franjeh in respect of UTS contract work?---Nothing at all.

Nothing at all, okay. So you, you took it that despite the fact he was a UTS contractor and you'd been involved with him in the past that this was separate, this was him just doing it as a friend?---When I came back in July 2010 I had no authorised delegation, I had no, I wasn't involved in any procurement, I didn't sit down on any tender assessment that involved Rega Controls on this matter.

Mr Faysal, over a long period what you've done with contractors at the University is given them the impression through what you told them that you were a person that could look after them and help them in their dealings with the University and the contracts they might try and get at the University hadn't you?---That was my job at the University to help all contractors not only three, four or five or seven.

What you've been very careful to do is to always leave the contractors with the impression that you were actually helping them to secure work?---I disagree with this. I was helping them to deliver to the best interests of the University.

And the reason why you always like to let them know that you're helping them that way is 'cause you accepted something in return?---I disagree.

And often it's the case isn't that in fact contracts were being looked at by tender committees where you didn't have the ultimate say?---No.

You agree or disagree?---Disagree.

Well - - -?---Or maybe I misunderstood you. Can you repeat it, please - - -

Maybe you misunderstood. What you've been doing is giving them the impression that you were helping them in their dealings with the University, that is helping them to secure work?---I never help them to secure work I helped them to deliver after they got the job I helped them to deliver to the best expectation that the University wants was in time, cost and the quality.

But do you understand I'm asking you about what you've conveyed to various contractors?---I didn't convey anything to anyone of the contractors.

What I'm suggesting to you and you can tell me whether you agree or disagree is that what you've done over a long period of time is you've cultivated relationships with contractors. Do you understand what I mean by that?---Relationships, yes, I'm, I have relationships with a lot of people.

10 But what you've done is you've always tried to through your what you've told them make them aware that you were helping them in some way in securing work whether that was in fact the case or not but you've given them that impression through what you've told them haven't you?---I don't believe I gave the impression that I was helping anyone to secure works through the UTS.

And I'm suggesting to you that you provided them with information and told them to what you said to them that you were helping them because you expected something in return?---I disagree.

20

Now do you recall that in 2009 Wilkhahn the office furniture provider gave you a chair?---Yes, I recall that.

And do you recall that in December 2008 you placed an order with Wilkhahn?---Sorry, can you remind me the date?

In December 2008?---Yes.

30 Do you remember at that time you placed an order?---I placed an order?

You conveyed an order to them?---Sorry, 2008?

And eight?---I was acting manager at the time, there would be the project manager who would gave them an order.

Well I'll put this in context for you, earlier in October 2008 Wilkhahn had paid for your hotels in Cologne and Berlin?---Yes.

40 So you had a relationship with them?---Yes.

You'd been involved in projects before where the University had ordered quite large amounts of furniture from them?---That's right.

Do you recall, and this is at page 510. And I'll tender these pages which are emails between staff at Wilkhahn and Mr Faysal. I'll provide copies to my friends?---Yes.

Do you recall looking at - well starting at page 512?---(not transcribable)

The bottom. Do you see there there's an email from you to (not transcribable)?---Yes.

And you confirmed an order there?---512.

At the bottom?---Yes.

10 Do you see you confirmed an order there?---Yes.

And it's for 20 time table tables?---Yes.

20 FS line chairs?---That's right.

16 (not transcribable) tables?---Yes.

And 150 FS line chairs?---That's right.

20 Now it's fair to say isn't it that the Wilkhahn tables and chair, they're expensive items?---Very expensive, yes.

And they're very good quality?---Best quality.

And so you confirmed the order with Wilkhahn?---I confirm it on the behalf of the project manager Vicky Shirlaw at the time because she was absent.

But you sent the email and you had a response if you look at page 511?
---Yes.

30 From a Ms Tarjan at Wilkhahn?---Sorry, which page?

Page 511, you'll see there's confirmation of the order?---Yes.

And Ms Tarjan indicated on behalf of (not transcribable) she'd like to thank you for your order?---Yes.

40 Now was there some later discussion, sorry I withdraw that. That order involved a fairly significant purchase on the part of the University didn't it?
--Yes.

Then in early 2009 do you recall having some discussions with Ms La in respect of some a-line chairs?---Yes.

And were they further chairs that were being ordered by the University?
---That's right.

And you were the manager were you of this particular, that was looking, overseeing the project manager who was involved in this particular procurement?---That's right, yes.

And you'll see at page 517 - - -?---Yes.

- - - there's an email from Ms La to you indicating that all was under control with the a-line chairs?---Yep.

10 And that you were keeping the guys in Germany very busy?---Yeah.

Can I then ask you to go to page 520? Now this is not an email that you might have seen before, sorry withdraw that. This is an email you may not have seen before but you see that in that email from Ms La to Ms (not transcribable) Wilkhahn - - -?---Yes.

- - - refers to the fact that you'd been there not too long ago to discuss the tender for the a-line chairs?---Yes.

20 And that you'd absolutely done Wilkhahn a great favour. Can you think what might have been that you said on that occasion that would have lead her to say that?---I don't know.

And in the next paragraph Ms La notes that you were also telling her between the lines that you like the modus chair a lot?---Yeah.

Do you recall on that occasion indicating that you really liked the modus chair with the view that perhaps hinting you might like one?---Absolutely not.

30

All right. You don't, can you think of where she might have got that impression from?---I don't know.

You'll see that Ms La in the next paragraph says that whilst you're not a designer that you'd showed so much support in the last 12 months that she was suggesting that maybe you could be given a chair?---That's her suggestion.

40 Right?---(not transcribable) can't sit in her brain and see what she's thinking about.

Right. She notes that the value of orders since December 2007 was 1.4 million?---Yeah.

Would that be consistent with what you understood the University had ordered?---I don't know what was the value of the order, maybe 1.4 yes.

You note that she says that you took annual leave with Wilkhahn and you paid your own flight?---Yeah.

Well it's correct that you took leave, the part about paying your own flight isn't correct is it because that was Rega paying for it?---Exactly.

And she noted that you were going to support Wilkhahn again in 2009?---Yeah.

- 10 Can you think that you might have said something to her during that meeting about the fact that you were very enthusiastic for the Wilkhahn products and would be keen to ensure that there were further orders?---I'm not (not transcribable) they are five star furniture equipment, they sell the best of the best. I'm not giving them any certificate on that.

Do you see in the next line that Ms Wilkhahn indicated, sorry Ms La indicated that you'd read all the brochures of Wilkhahn that you'd ever given, that you'd ever been given by her and you were making a big advertisement for Wilkhahn at UTS?---Yeah, that's right.

20

So that, do you agree that that was a correct description of what you were doing?---It's the best furniture, yes. The tables which you refer to me to the previous email, these tables which were supplied to the design and architecture building was designed by a student as a design and only Wilkhahn could be able to deliver it. There's no other tables in any University except at UTS for these tables.

Well - - ?---Advertise, yes, I would advertise for it.

- 30 It's correct isn't it - - ?---It's a very quality product.

All right. It's correct isn't it that after 22 March you then had some communications where you put in a specific specification for the chair that you'd be getting, the modus chair?---No.

Well have a look at page 523. Do you see in that email you say thank you for organising the chair for myself? Do you see that?---Yeah.

- 40 And you specify what you'd like, you wanted the modus as per an attached photo, you wanted Vienna leather, Kahlua colour?---Yeah.

You wanted a polished aluminium matte look finish and casters with soft casters for the rubber and hard floors?---That's right. I didn't deny this.

Is that the chair that you received?---I don't know whether it is modus, I know that I received a chair and I explained to you last time this was offered by Thu La, Wilkhahn have provided to her because she was leaving and she gave it to me as a personal gift, I'm not denying this.

Mr Faysal the evidence about it being something that was belonging to Mr La and then being given to you, it was her departure gift, that's just a lie isn't it?---It's not a lie you can talk to her please.

You specify how you wanted the chair to be made up, the particular finish, the fabric?---The only thing that she gave me on that date, the finishes and she said select whatever you want.

- 10 Mr Faysal if it was her chair she would presumably have specified it do you think?---I told you Wilkhahn offer it to her, she pass it to me and I accepted that.

It was, can I ask you this, and I note the time, this will be the last, I'll finish this subject matter off Commissioner, but on the last occasion you told me that if you were to accept a television from a contractor to the University and not inform your superiors and keep it for your personal use that would be corrupt conduct?---That's right and that has nothing to do with this.

- 20 It's precisely what you did with this chair isn't it?---No, it doesn't apply on this chair.

So did you give it to the University?---I didn't give it to the University, I told you I took it with me home, this is a personal gift from a friend to me.

Who just happened to be a friend that worked at a large supplier of office furniture to which you had recently conveyed a significant order on behalf of the University?---Exactly and I'm still friends with her.

- 30 Thank you.

ASSISTANT COMMISSIONER: Yes. We'll adjourn until 2 o'clock. I should tender the, I will make the emails bundle that the witness has been taken through Exhibit 33.

#EXHIBIT 33 - EMAIL BUNDLE

- 40 MR DOWNING: And Commissioner can I just check the, I'm not sure that I actually tendered either the transcript or the audio of 23 May 2012 discussion?

ASSISTANT COMMISSIONER: No. The transcript and the audio file for that telephone discussion will be Exhibit 34.

**#EXHIBIT 34 - TRANSCRIPT AND AUDIO OF INTERCEPTED
TELECOMMUNICATION G00289_00_00 23/05/2012 15:54:38
FRANJIEH/FAYSAL**

MR DOWNING: Thank you Commissioner.

ASSISTANT COMMISSIONER: Thank you. We will adjourn until 2
o'clock.

10

LUNCHEON ADJOURNMENT

[1.03pm]