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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY, 27 SEPTEMBER, 2012

AT 2.01PM

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

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

MR DOWNING: Thank you. Mr Faysal can I just clarify a couple of matters that I asked you about before? You recall that I asked you some questions about the method of payments of \$35,000 that Rega made to you on 11 October 2007?---Yes.

And you've, there are five invoices that relate to engineering works and gift items that you say that payment related to? I've taken you through the invoices before, accept from me that there are five that if you add them up come to \$35,000?---There are eight, four plus four.

It's eight is it?---Yes. It's eight.

MR STITZ: Yes.

MR DOWNING: I'm sorry. Do you say that those invoices that the payment of \$35,000 that occurred on 11 October 2007 related to, do you say that they were created at the time or at the time the payments were made, or do you say they were created later for the purposes of trying to lodge tax returns?---No, the copies which I've acquired from Ramsey were the ones which was provided to him before he paid me the cheque.

So you created those as original invoices before you received the cheque?---Exactly.

And can I ask you, you told me in the course of your evidence before that the trip for Takla El Kassouf from Lebanon to Australia and returning August October 07 was paid for by you in cash?---Yes.

Now are you aware that, you're aware that Mr Franjeh said that he paid for it in his evidence?---I don't know, I'm aware that I paid for it.

Well you've heard his evidence haven't you? Can I ask you in relation to Ms Takla Elkassouf, is she also known as Jacqueline Kassouf?---No.

Is that a different person?---Different person. Jacqueline is her sister.

Is her sister?---Her sister.

Okay. Now I asked you some questions earlier in the day about the UTS procurement policy and directives and this was correct wasn't it that you said that you had received it and you read the part that set out the methods

of procurement required at different financial levels but you hadn't read the rest?---That's right.

And you also said that you believed that in all of your dealings with contractors you had acted in accordance with the probity and ethical behavioural requirements?---I believe so.

And also the confidentiality and other ethical consideration requirements?
---Exactly.

10

MR DOWNING: Now your, you've been present in court and when Mr Jurgeleit from Airin Services gave some evidence?---Yes.

And you heard the transcript of, I'm sorry. You heard the recording of the conversation?---That's right.

Between you and him?---Yes.

20

You accept that that was a conversation between you and him?---Yes.

And you've - have you seen the transcript of that?---Yes.

Now do you agree with me that and we're talking about the conversation you had or there were two on 16 March 2012 and 22 March 2012?---Yes.

In the first of those conversations and you heard Mr, you've heard Mr Jurgeleit's evidence about it?---Yes.

30

In the first of those that he told you he'd submitted a, a quote or a tender the previous evening?---Yes.

And it's the case isn't it that Mr Jurgeleit he knew he was the, he was the principal of Airin Services who was an air conditioning contractor seeking work at the University?---Yes.

And you were aware that he'd done work over a period from 2006 to 2012?--Yes.

40

In the course of that conversation the first one you spoke to them about the price that he had submitted in his quote?---Sorry?

You spoke to him about the specific price?---Yes.

155?---That's his price which he submitted.

But in the course of that conversation you also suggested to him didn't you that or you asked him about whether in fact - I withdraw that. You gave him some helpful advice prior to that conversation hadn't you about how he

might put together his quote and how he might use particular controllers from Rega in order to arrive at a particular price?---No, I didn't give him that advice. I can explain this point if you allow me?

Well first of all let me just ask you some questions and you can answer - - - ?---Yes.

- - - give your explanation in the course of your answer?---Okay.

10 On the 16 March in the course of that conversation you - he told you he'd put in a price of 155, that was \$155,000?---That's right he told me that.

And do you remember saying okay so, so how, how did you, has it been added, you added something, it was 158 before I gave you the discount from Ramsey. Do you remember saying something to that effect?---Yes, I said that.

20 And that indicates doesn't it that prior you'd had a discussion with Mr Jurgeleit where he'd suggested a higher price and you'd given him some information about Rega in a way in which he could use Rega Controls to bring the price down?---No, Rega Controls submitted a price to all of them. Gary - let me, let me explain one point if you allow me? Gary send me his price breakdown for check up, I look it for him, Rega Controls price was 25,000 which is over and above any price I would expect. I rang Ramsey and I ask him why your price is 25,000 he explain to me, I told him your understanding is wrong, you have to approach it that way, he said okay I will re (not transcribable) and he (not transcribable) he dropped 10,000 and he (not transcribable) Gary for \$15,000. That's after my clarification with Ramsey.

30 Mr Faysal, in the course of that conversation do you remember saying to Mr Jurgeleit you're the only one, know that got that discount?---That's right. Because Ramsey told me about the two others whom he (not transcribable) too and he said I don't like to work with these two, I will, I told him to (not transcribable) to all he said I'm doing it only to Gary because I like to work with him I don't like to work with the other two, I told him it's your business, do whatever you want.

40 Mr Faysal, you're lying about these conversations?---I am not lying I'm saying the truth.

Do you recall saying the words "let's win it, once we win it we will work out something don't worry about that"?---I didn't say this I said if you win it not if we win it. What I has to do with them. I said if, if you win it we will work something out, yes and would you allow me to explain what I mean by we will work something out?

Mr Faysal, you've heard the recording?---I've heard it, yes.

I'm suggesting to you that it indicates you saying let's win it that's collectively you and I win it - - -?---No. I said if you win it. No.

So you say that's what the recording shows you saying?---That's not what I meant what there - - -

Forget what you meant. What did you say?---Yes.

10 Did you say let's win it?---No. I believe I said if you win it.

Mr Faysal, you're lying in the evidence you're giving the Commission at the moment aren't you?---I disagree.

20 What were you doing was indicating to Mr Jurgeleit through this conversation that you'd given him and him alone some information in order to bring his quote down and the plan was that he would then win the job and that you'd sort something out?---No, I'm not going to sort something out for him. For your information Gary is a blind man, he can't see. His licence have been withdrawn two weeks after this and that's what I'm telling him I'll sort him out. I was helping him to push his (not transcribable) to go to the project.

I see, so you're helping him, you were planning to help him with his disability?---Exactly.

Right?---That what I was doing.

30 That's a lie isn't it, Mr Faysal?---It's up to you, you check with Gary whether this true or not. His visual ability is minus 17 over 20. He can't see.

Mr Jurgeleit said nothing in his evidence the other day to suggest that he understood what you were suggesting to him was that you would give him some assistance with his visual disability?---It's up to him, that what was my intention.

40 What he indicated was he understood you saying that having already been coached by you about the bid that he was going to hopefully win the bid and then you'd sort something out?---That's what I said, I sort something out helping him to deliver the project because he's not a blind man, he's three-quarter blind.

Can I suggest that what you were implying was that because you'd helped him win the, hopefully win the bid that you were expecting something in return?---I did not expect anything from Gary, Gary never gave me anything.

All right. Well, on 22 March you had a further conversation. Do you recall that?---Yes.

And you heard the recording of that?---Yes.

And you've seen the transcript?---Yes.

On that occasion you rang Mr Jurgeleit?---I returned his call.

10 Well, on that occasion, that was before the decision by the University had formally been made and communicated to tenderers, wasn't it?---I don't know, I wasn't party to any tender or any knowledge to the projects.

So you had no knowledge of the project?---At all.

How in the course - well, I withdraw that. In the course of that conversation you told him that you had good news, that his figure was 155 and that his competitors were 165 and 240?---That's what Ramsey told me. Ramsey told me this information, I wasn't aware of the tender submissions, you can
20 check the UTS documents whether these figures are right or not.

Mr Faysal, irrespective of where you got that information from, you knew that it was inappropriate for you to be communicating with individual contractors before the contract had been awarded about the competitors' prices, you knew that, didn't you?---It's not my project, I have nothing to do with it.

ASSISTANT COMMISSIONER: It was confidential information, wasn't it?---It wasn't confidential from UTS, the information was from outside the
30 UTS. It is confidential if I provide this information from the UTS documents. This information came to my knowledge from Ramsey, it was outside the UTS and it has nothing to do - - -

So you think if somebody else at the UTS had leaked it to Ramsey and he gave it to you then it's all right for you to pass it on?---But Ramsey, he is a businessman, he sniffs the information from the subcontractors.

Yes. Could you answer my question?---That's what I've said. He sniffs - -
40 -

You know originally the information must have come from somebody within the UTS?---Not from anyone from the UTS, I deny that.

Originally it must have come from somebody?---It came - - -

Ramsey's not on the tender review panel is he?---No. It - - -

Well, he must have got it from somebody at the UTS?---He got it from the subcontractors, not from the UTS.

Is that what he told you?---That's what he told me, yes, and it wasn't from anyone from UTS and I don't believe even these figures are right. I am aware that Gary's figure, he told me it's 155, that's true, about the other two I'm not aware of them and I don't believe they are true figures or accurate. They may be very near but they are not accurate figures.

10 MR DOWNING: Mr Faysal, do you recall in the course of this discussion after talking about different prices and the fact that Mr Jurgeleit's was the lowest, he whistled, seemingly happy - - -?---Yes.

- - - because he was happy it looked like he might win the project?---Yeah.

Do you recall saying, "Okay, so you know this 10,000 in the controls made the difference" and you laughed?---Exactly. That's the - - -

20 And what you were communicating weren't you was that your help had made the difference and you wanted Mr Jurgeleit to be clear about that, that you'd help him win this contract?---I don't believe, he, he won it because he was the lowest price.

ASSISTANT COMMISSIONER: Oh, come on. Honestly, you helped him win it. You helped him get the lowest price by giving him the discount. You've already admitted that. You've already admitted that you rang up and clarified with the Rega that it could be done at a lower price. Isn't that right?---Is it wrong to have a, the best to secure the lowest price for the University? It's the lowest price for the University.

30 So you're seriously - - -?---I help him.

- - - suggesting there was nothing wrong in your helping one contractor secure the lowest price?---Whoever is that contractor, one or two or three. Ramsey is the one who didn't give the fair go to the three contractors, it's not me.

40 So you did absolutely nothing wrong again, this is another matter where you've done absolutely nothing wrong?---I don't believe I've done anything wrong, I didn't disclose any confidential information from the University on this matter.

MR DOWNING: So consistent with what you told me earlier in terms of your behaviour, you maintain that you were dealing fairly and partially and consistently with all suppliers in this communication with Mr Jurgeleit?---Yes exactly.

So I take it then you called all the other suppliers and told them that they could reduce their quotes by ten or \$15,000?---I don't know the other suppliers, Ramsey knows them.

You're lying in this evidence Mr Faysal?---I am not lying, I'm saying - - -

And you are lying to try and cover a very plain example of you doing precisely what you were prohibited from doing as an employee of the University?---I'm saying the truth.

10

Now in the course of that conversation do you also recall Mr Jurgeleit saying that anything, anyway everything is going to be a variation of bill, there's not going to be any holding back this time, and you replied to that yep and don't worry once you start managing it I will let you know how and you will make the submittals and take the approvals?---Exactly, I told - - -

And what you were indicating through saying that was of course once you start I know you've quoted 155 but you're going to put in variations we know that now and I'm going to manage it so that they all get approved?---

20

No, how can I manage it and I'm not the project manager?

Mr Faysal even if you couldn't physically achieve that in the real world you were making it plain to him that again you were helping him and favouring him because you wanted him to believe that you were taking care of him?---I didn't say that I'm not taking care of him. I was taking care of him, he's a blind man and I repeat I was helping him to prepare his submittals, he can't see, he cannot read.

You wanted him to owe you didn't you?---Sorry?

30

You wanted him to owe you, you wanted him to be in debt to you so that you could call in a favour?---No, I was helping him.

You're lying in your evidence aren't you?---I'm not, I'm saying the truth.

Do you also recall in the course of that conversation telling Mr Jurgeleit - - - ?---Yes.

40

- - - that okay so this is the good news but please pretend you don't know anything because no one knows about it?---Exactly, about his visual disability.

That is an embarrassing lie - - -?---Because he will lose - - -

- - - isn't it Mr Faysal?---Ask him. I'm saying the truth.

You're suggesting that he was embarrassed - - -?---He's - - -

- - - about his visual disability?---Exactly.

You were telling him this is the good news, the good news that he was getting the contract and you asked him to please pretend you don't know anything, not about him being blind or nearly blind but about the fact that you had coached him and helped him win a contract you hoped and that you'd given him information you knew you couldn't do?---I disagree.

10 ASSISTANT COMMISSIONER: So was the good news that he was blind?---Exactly. He was embarrassed of it. He didn't talk even about it yesterday.

Why was that good news that he was blind?---Sorry?

Why was that good news?---Good news?

That he was blind?---It's not good news, it's bad news.

20 Well you're saying this is good news but pretend you don't know anything about it because no one knows?---No, I'm saying this is good - - -

So the it is that he was blind, that means the good news is that he was blind?---No sorry the good news is that he got the job, not the good news that being blind, and then I continued saying that I will help you, don't tell anyone about it, don't tell anyone about his visual disability.

Yes, all right.

30 MR DOWNING: You also were present in court and you heard a recording of a discussion you had with Mr Franjeh on 12 March 2012?---Yes.

And you've seen the transcript of that?---Yes.

It's correct isn't it that in the course of that conversation you gave him information about a large contract that was up for tender at UTS at a price that had been submitted by one of the companies seeking the tender that's TES?---I wasn't, I didn't, that's information is from Ramsey. He told me about this information.

40 Wherever it came from you were passing it on to Mr Franjeh weren't you?---No.

In the course of the conversation?---I totally disagree. He was passing it to me because he was in the tender assessment committee, I wasn't.

So in the course of that conversation the transcript shows you saying them, TES, how much is their price? And you say I gave it to you Ramsey, I told

you, 5., 5.8?---You gave it to me, sorry, you gave it to me. If you run the transcript I'm more than happy to correct it. I said you gave it to me.

You suggest that that's what you, he was telling you that he'd given you the price?---He gave me all the prices, not only for TES because he submitted for all of them and he's the one who made me aware even of the name of the contractors whom he provided to them.

10 Now it's the case isn't it that TES was in the running for what was a fairly substantial contract at University?---I don't know I wasn't party to that project at all.

So you know nothing about it?---No.

20 Do you recall in the course of that discussion on 12 March saying now in the end John Kraefft can get fucked and he and the others can get fucked, it's their problem, what's important is that you get the order from them if they, if you get the order and you get the money, your money?---I'm referring to the first paragraph where I - - -

The part about John Kraefft getting fucked?---No, I was referring to if John Kraefft has done something wrong I said he will be fucked up.

What you said was it's important that you get the order and what you were referring to was the fact that under this contract there would be subcontract work for people like Mr Franjeh weren't you?---Because Mr Ramsey was complaining about the John Kraefft and I'm telling him what this has to do with you, you got the order and then it's your problem.

30 Why was it important from your perspective that Mr Ramsey Franjeh get the order?---It's not important to me whether he gets the order or he doesn't got the order.

Well why did you use the words what's important is you get the order?---I'm, I'm referring to him because he's very whingy. And I'm referring to him, I'm telling him stop whinging about it, get the order.

You didn't say that?---I didn't say that but what was - - -

40 You said what's important is you get the order?---This is the implication. That's what I implied.

The explanations you're giving to try and explain away these conversations are inventions trying to cover the obvious aren't they?---I disagree, these are facts.

Now what I'm suggesting to you is consistent with your discussions with Mr Jurgeleit and your discussions with Mr Franjeh, you regarded these

attempts to win contracts for each of their companies as team efforts, you helped and you wanted to make it plain that I've helped you, we'll win it together?---No. I disagree with this, I helped all contractors not only Gary and Ramsey.

And the reason you wanted to make it plain for them and make it absolutely clear that you'd helped them was because you wanted them to know that they owed you?---I disagree.

10 And that you were keen to be looked after with either cash or travel like you had been in the past?---I disagree.

Now later in that same call on 12 March you indicated that you would ensure that Watermen Engineers were on the project. Do you recall that?---That's not what's intent, even Waterman wasn't on the project.

Can you tell me what project were you referring to in relation, in your references to Waterman?---I don't know what Ramsey was talking about.

20 Well you say at one point in the conversation well mainly I'm going to get Waterman going because Waterman do as I say. What project were you referring to at that point?---Waterman doesn't do what I say.

Forget that for the moment. What project were you referring to?---I don't know, I don't do projects. I saying I wasn't a project manager, I don't engage any, I wasn't in the process of engaging anyone and I never engage any consultant on that, on any project.

30 So can you explain then what you meant when you said that's the least of my worries Ramsey, what our specifications say, I will tell Waterman and he will put in the specifications the way I want it?---I mean technical advice.

Was that a reference to the tri-gen project?---I don't believe so, no.

Because you recall that you were, that project and your involvement in it was the subject of some investigation by Ms Barnes?---I don't believe so.

You don't think so, are you sure?---No. And I had no relationship with Waterman EHW at all.

40

Because you recall that part of the, and this is at page 950, exhibit, second volume of the exhibits. Part of the investigation that Ms Barnes undertook was in relation to the fact that you had engaged Waterman as a single consultant, that is no other consultant had been engaged to provide a fee for the tri-gen project and the fee was in the order of \$700,000?---I disagree, I didn't engage Waterman, nor I had any discussion with them, and nor Waterman have been engaged by the university to do the tri-gen.

Well when you said let's get Waterman because they do what I say, what were you referring to? It must have been some (unintelligible) dealing with Waterman?---I don't believe it was related to any project at UTS.

Well what did they do what you said in relation to, ordering lunch?---Sorry?

Was it that they did what you said in relation to ordering lunch, is that why you were referring to them doing what you said?---No, that's not why.

10 Well what was it referring to? It obviously referred to an engineering job they'd done for you.

Not they've done for me at UTS. I didn't refer to this to any project at UTS, I disagree.

Well what was it a reference to?---I don't recall what was, Ramsey talks too much to me about too many projects inside the UTS and outside the UTS.

20 Well you were speaking back to him and what you were suggesting was that you wanted to use, to ensure that Waterman would be used because they would do what you say and they would put the specification the way you wanted it?---Waterman would not do what I say.

What I'm suggesting to you is what you were communicating to Mr Franjeh was you'd make sure you used Waterman, that they would do the specification as he wanted it in a way which would ensure that Ramsey through his company would get further work?---No, I disagree with this.

30 Because you wanted to make sure that as part of whatever project it was you were talking about that Rega was going to be used and you wanted Ramsey to know what you were making that happen?---I disagree with this since the 2010 when I return to the University I've never mentioned the name of Rega and the UTS specification.

40 Well, do you recall in the same conversation on 12 March saying not long after saying that Waterman would put in the specification the way you wanted it, you actually said, "I don't want to name Rega by name, I want to play it like we played the Broadway building, very quietly and secretly because Ramsey, as soon as they see your name, the knives and the axes will come at your head"?---That's right because Ramsey wasn't aware that there was another got who got the same as Reliable Control who was tendering at the UTS at the same time.

So why was, why was it important that you played it quietly and secretly like you had with the Broadway building?---It wasn't, nothing was quietly and secretly. Quietly and secretly is not to mention Rega.

Well, they were your words, Mr Faysal?---And I have never mentioned Rega in any of the documents.

Can I suggest to you that what you were referred to was Rega's involvement in a job on building 1 at Broadway, do you recall that?---Building 1?

Building 1?---No, I - - -

10 Do you recall one of the other jobs in which, in respect of which you'd been investigated was the fact that multiple floors in building 1 had had contract work done by both Hood and Rega and you'd been involved in that and - - - ?---That's 2007, yes.

And the concern was that instead of it being quoted and invoiced as one large job which would have been in the hundreds of thousands, it had been broken down into individual quite small invoices which fell within your area of delegation?---I disagree.

20 Well, tell me, in the reference there in the recorded conversation to the way in which you'd played the Broadway building, what were you referring to? ---The Broadway building is the new Broadway building, building 1 is the UTS tower.

Well, how had you played that in the past?---I didn't play anything in the past, I was open and fair with everyone.

You're lying, aren't you, Mr Faysal?---I am not.

30 What you were making a claim to Mr Franjeh through his conversation was I'm giving you information, I'm helping you here, it's secret, don't let on to anyone because we've done it in the past and we don't want to get in trouble?---I disagree, there's nothing secret around the University. All their funds are available publicly on the internet.

40 And what you'd done in respect of that previous project that was investigated was you'd put through multiple invoices in the tens or, around the 10 to \$20,000 mark, or in the case of Rega the forties of thousands, about \$40,000, which was within your area of delegation, didn't you?---I disagree because that project was investigated by IAB Services in the name of Mr Peter Mulhall and he checked, I've read his report, and he said that all the works which was carried on this is value for money and I can challenge everyone.

Mr Faysal, even if they were value for money you understand that according to the procurement requirements big jobs shouldn't be split into little individual invoices should they?---This was not split, this was construction management.

But what you were - even if this was a project, for the sake of argument, that is the project with the multiple floors at the University where the Hood invoices and the Rega invoices were paid - - -?---Yes.

- - - even this those were projects that would have been approved had they been put in in one large lot, what you were doing though was making it plain to the suppliers Hood and Rega that you could look after them?---No, this is, I disagree.

- 10 Even if you didn't really have the power, even if that was a contract that would have been approved had it been put it in the proper way - - -?--- That's not the way, no.

Now you were bringing it within your area of financial delegation weren't you, when if it had been done according to the procurement requirements it would had to have gone in as one larger tender project?---I disagree. That wasn't case.

- 20 So you can't think of any explanation now for why in that discussion with Mr, Mr Franjeh you said that you didn't want to mention Rega by name, you wanted to play it like you played the Broadway building, very quietly and secretly?---I, I explained to you this, I didn't want to tell Rega, Ramsey, personally that there is another company who is trading in New South Wales and Reliable Controls in Canada have gave them the distributorship to compete against them.

- 30 Mr Faysal, do you maintain that in respect of your dealings with Mr Franjeh and Mr Jurgeleit that you at all times dealt fairly and impartially and consistently with all suppliers?---I agree.

You say that you kept confidential all sensitive information obtained as part of the procurement process?---Yes, I didn't disclose anything.

And you say that you didn't provide any information provided by a quotation provider or tenderer at any stage during the process or even after it had been concluded?---Before it's concluded I never did it, after yes, that's a policy at the UTS where we have to explain to everyone what are the prices and where the (not transcribable)

- 40 You're lying aren't you?---I'm not.

Now I've suggested to you and I'll put it to you in simple terms so that it's fair that what you were doing in your dealings with Mr Jurgeleit and Mr Franjeh was making sure that they knew that you were helping them being awarded in their, attempts to being awarded the contracts because you want them to feel like they were in some way indebted to you?---I disagree. I totally disagree this was regards to Rega, was regards to Gary I was helping him for nothing in return.

And I suggest that in the same way with Wilkhahn you communicated that order for the chairs in late 2008 again because you wanted something in return?---I disagree.

You wanted a chair and you thought that - - -?---I didn't want - - -

10 - - - by communicating the offer, sorry, the order even if it wasn't you personally who'd approved it, it would make them think that you'd been a great supporter of them and they'd be keen when you made the approach to help?---I disagree.

Do you recall that in respect of Targetti there was part of the investigation into your conduct at the University involved your involvement in the removal of the procurement of lights from a Lipman contract and the lights being separately procured through the University?---I disagree.

Do you recall that that was part of the investigation?---Yes.

20 And do you recall that - if I could ask you to have a look at page 455 of the first volume?---Yes.

Do you see that's an email there from Heather Adele to Deidre Barnes indicating the list of sub contractors in respect of the Great Hall Project had all been approved by you?---Excuse me this not related to the Great Hall Project.

And you say it's not?---No.

30 All right. Can I ask you to have a look at page 459?---Yes.

Do you see this is an email from Deidre Barnes to Clive Gunton and others?---Yes.

And it's in relation to the Great Hall light fittings?---Yes.

And do you recall, see in that email that it refers to the fact that Dave, is that Mr Oliver?---No. Dave is David Hughes.

40 David Hughes, I'm sorry?---Yes.

That Mr Hughes had explained that he removed the supplier from the Lipman contract, is there any easy item to install, easy item install item and he wished to save on the builder's margin, he explained that it was his decision to do so not the PCG and then had not get his approach signed off it at a later date. He also advised it was on the advice of Nabil and that Reg Collins had actually made the purchase?---Yes.

So you've given advice then about removing the lights from the contract?
---I disagree. I didn't - - -

So you say that's wrong?---That's wrong because there's a long time, long margin between the decision and the advice, the technical advice I gave which I gave which was four months after the incident had happened.

10 Do you see - I ask you to look at page 463. Do you see there that, that's an email from you to the Penrith branch of Rexel they're a lighting wholesaler?---Yes.

Mr Peter Gaston?---Yes.

And you'd asked, you were asking for a particular quote?---Yes.

And you indicated you'd get the Targetti alternatives?---Yes.

20 And it's the case isn't it that the original quote for this project, if I ask you to have a look at pages 467 to 468, do you see, do you recall that this was the original quote?---Yes.

And it didn't provide for any Targetti products to be used?---That's right.

They were mainly (not transcribable) lights?---Yes.

And do you then recall that there was then a revised Targetti quote obtained?---Yes.

30 And were you involved in getting that?---Yes.

And that appears at 470 to 471?---Yes.

It was a cheaper quote?---Exactly.

But now most of the lights in terms of the dollar value were Targetti lights?--That's right.

40 So it was the case, you say that you helped save the University money. That's what you say about this project don't you?---Exactly.

Do you understand that in terms of conflict of interest that being involved where you're suggesting not using one particular supplier who may or may not have products that have advantages over the Targetti lights, but using Targetti lights where you're receiving paid travel from them places you in a conflict of interest?---No.

You don't see any conflict there?---No.

Can I suggest that what you were again wanting to achieve through this was to let Targetti know that you would be going into bat for them and you would give them the impression that you'd assisted them in selling the lights?---I disagree.

10 You wanted them to believe that you were a champion for them in your work at the University?---I disagree. The reason for me changing it to Targetti, it's cheaper. Because if you look then to the next (not transcribable) which (not transcribable) shown me which is (not transcribable) lights, they are over David's budget. It's \$150,000 whereas his budget is \$125,000. And that was the reason why it was provided by Targetti.

And you - - -?---It's not that I want to be looked as a champion.

20 Now can I ask you to have a look at page 953? Do you recognise that that's an email, I'm sorry, I understand these haven't been tendered yet so I'll provide a copy and hand up a copy for tender and distribute them to the parties. I tender this series of emails Commissioner and it's communications between Mr Faysal and a company known as Complete Technology Integrations Australia, or CTI Australia.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 35.

#EXHIBIT 35 - EMAIL COMMUNICATIONS BETWEEN FAYSAL AND COMPLETE TECHNOLOGY INTEGRATIONS

30 MR DOWNING: Now do you see this, the email on the first page from Wayne Richards to you?---Yes. Yes.

And Mr Richards indicates that he's split the invoices into almost four, sorry, he's split the bill into almost four equal invoices?---
Yes.

40 Now you understand don't you as part of the procurement procedures that splitting invoices is not a permissible activity?---I disagree, this is not splitting the delivery. This was to be split into four different projects because they are one order for four different projects so that we can get four different invoices and they would be expense into these four different projects.

You say that that was the reason for asking for it?---Exactly.

But by bringing it into four separate invoices you recognise, I ask that you look at the invoices at pages 961, sorry withdraw that, 959 to 962?---Yes.

All of it was the supply of C bus equipment from CTI?---That's right.

By having invoices split what it does and bearing in mind that this is in 2008 when you were still in an acting managers position - - -?---Yes.

- - - it brings it from being a, first of all something that should have been tendered if it was done as one item into something that could be done with a smaller number of quotes, doesn't it?---No.

10 It brings it - you disagree?---It's a, it's a - I disagree. This is a single unique product called C-Bus, there's no other alternative. It doesn't, we can't get a competitive tenders for C-Bus, C-Bus is C-Bus. It's a unique - - -

So you say there's no alternative?---Exactly, this is a unique supply and it would fall under the procurement policy of the supply of single supply product authorised by the delegate of the University.

20 Is it a requirement where there is only that single supplier that that needs to actually be explained in the procurement process as to why there's a variation from the normal practice that there should be a tender or a series of quotes?---Exactly, it would be explained and it will be in the project files why these have been done.

But the effect of splitting it in this way also is that it brings it within your area of financial delegation at the time, didn't it?---I disagree because even all of them, they will fall under my authorised delegation. My authorised delegation at the time was 200,000.

30 I'm sorry, I do apologise?---The four, the four invoices are less.

Now, do you also recall in your dealings, do you also recall in about May 2008 CTI asked you about whether it would be okay for CTI to place an ad using UTS' name?---Yes.

And if I'd ask you to have a look at pages 968 to 970, do you see there an email from you on 13 May, sorry, it's 201- - -?---Yes.

40 - - - where you made reference to the CTI products that had been used already at the UTS - - -?---Yes.

- - - and indicated that you couldn't see any issue with the ad?---That's right.

Can I ask you, did you understand that it was part of your function at that time in 2010 to give the authority to UTS' name being used in advertising material for one of the companies doing contract work?---It wasn't an ad by the way, it was an engineering article in an engineering journal.

Have a look at page 970?---Yes.

It's an ad, isn't it?---It's not an ad, it's an article in the, published in the journal and it's already - - -

ASSISTANT COMMISSIONER: Doesn't your email say "I have no problem with the ad"?---It's not an ad, sorry, it's, it's, it's an article.

10 Well, you called it an ad in your email didn't you?---He called it an ad and I responded to it but this was an article.

Well, then why are you saying it's not an ad?---It's an article in an engineering journal.

Well, why did you call it an ad in your email?---I didn't call he, he call it an ad and I responded to it.

20 MR DOWNING: So is this a peer-reviewed scholarly article for an engineering journal?---Yes and this is published on the Internet. If you Google it you will find it on the internet.

You're lying in your answer about this aren't you, Mr Faysal?---I am not. It's published on the internet, I (not transcribable)

You, you know, don't you, that you had no authority it wasn't part of your job to be approving ads where UTS' name was going to be used to promote one of the contractors to the University?---They are not, I am not promoting CTI here, I am promoting what is done at the University.

30 Excuse me just for a moment. Can I at this point, Commissioner, tender - there is a compulsory examination of Ms Lisa Schlicht on 6 August, 2012. She was one of the people that, Mr Franjeh you recall, that you were dealing with at Wilkhahn in respect of the chair?---I'm sorry?

Lisa Schlicht, do you remember she was one of the people that you dealt with at Wilkhahn as well as Tan Lu - - -?---Yes.

Oh, sorry, I withdraw that, it was Thu La?---Thu La, yes.

40 One of the other people that you dealt with in respect of the chair was a Ms Lisa Schlicht?---No, I didn't deal with Lisa on that chair.

Did you have no communications from her?---No. I had communications with her on other products but not regarding that chair.

In a minute I'll hand out the compulsory examination of (not transcribable) and provide copies to the parties.

ASSISTANT COMMISSIONER: Yes, in respect of this compulsory examination, I remove the non publication order and it will be Exhibit 36.

THE NON PUBLICATION ORDER ON THE COMPULSORY EXAMINATION OF LISA SCHLICHT IS REMOVED

#EXHIBIT 36 - COMPULSORY EXAMINATION TRANSCRIPT OF LISA SCHLICHT DATED 6 AUGUST 2012

10

MR DOWNING: And what I want to suggest to you again was that the chair had nothing to do with Thu La giving you a present that was otherwise something being given to her as a farewell gift, but it was you indicating you would like a chair and then getting one from Wilkhahn?---I disagree. I stand on my previous saying.

Thank you, Commissioner.

20 ASSISTANT COMMISSIONER: Thank you. Yes. You, Mr - - -

MR DOYLE: Just a few questions, thank you Commissioner.

ASSISTANT COMMISSIONER: Thank you. Could you tell Mr Faysal for whom you appear?

MR DOYLE: I will, thank you Commissioner. Mr Faysal, I'm the barrister that appears for Ramsey Franjeh?---Yes.

30 Now sir you've given evidence that the trips that Ramsey Franjeh gave to you overseas were gifts, the trips overseas?---That's what he said.

What do you say about the trips overseas? Were they - - -?---I've said, I repeat what I've said earlier, it was against my service I provided to him.

It was against - - -?---Services, consultancy services, advice, whatever you want to call it, I provided to him.

40 So when you say it was against, the trips that he provided to you, to your wife, to your children, to your daughter, all those are for services rendered? Yes?---I provided him service, he provided me the tickets in lieu.

That's a lie, isn't it?---Not at all.

You said before in your evidence today that Ramsey Franjeh was your friend?---And he will stay my friend. He was my friend and he will stay my friend.

He's your friend?---Yes and he will stay my friend.

Now sir tell me this, he's your friend. Have you ever gone to his, his home?---No.

Never once?---Sorry?

Never once gone to his home?---No.

10 Has he ever come to your home?---No.

Have you ever gone to the pub and had a beer with him?---Yes.

And have you gone and had dinner with him?---Yes.

Now your friendship, was it, was that, do you say that explains part of why he was so generous in sending you overseas?---No.

20 You and your family, it was all business related?---It's all business related.

And that would be a fringe benefit wouldn't it?---Maybe for him, not for me.

No, no, you're getting the benefit, you're going overseas aren't you?---I didn't get the benefit. He rendered me these in lieu of works I carried over to him.

30 Hang on, I must be misunderstanding something, it's probably just me?---Yes.

You just, you just told the Commissioner that you don't consider it a benefit that you got all these trips overseas? Have I, that's not a benefit to you, business class trips to Lebanon, your whole family, that's not a benefit for you?---It wasn't business trips it was economy trips. It was economy trips.

Thanks?---Yes.

40 It was not, not a benefit? It's not a benefit to you?---It's a not benefit. What I repeat, what I've said he paid me for this in lieu of the services which I provided to him. Friendship is friendship and business is business.

Mr Franjeh - you used to contact Ramsey Franjeh?---I used to contact or he - - -

You used to contact him and you used to tell him that you've wanted to go overseas didn't you?---I disagree.

And you used to get him to pay for those trips, didn't you?---Disagree.

And when he, when you, when he paid for those trips you used to - you didn't even thank him did you, you just sweep with your hand and say you'll get some work, you'll get some work, didn't you?---I disagree.

You say that they're for services rendered, all those trips were for services rendered. That's what you're saying to this Commission isn't it?---Exactly.

10 Did you put those in your tax return?---No. 'Cause these are personal why should I put it in my tax return. I didn't pay for it to put it in my tax return -
--

ASSISTANT COMMISSIONER: Well it can't, it can't be personal and business. You're saying, you're saying in effect it was income, it was payment for work you'd done?---I didn't give him any invoice for it to claim it in my tax return.

Exactly. Go on Mr Doyle.

20 MR DOYLE: Now you've said in your evidence that you did private work for Ramsey Franjeh's company Rega Controls?---That's right.

And you've said that - well you've shown these invoices haven't you that, that you say Ramsey sent to you?---Yes.

For work. Yeah?---Yes.

30 You've bodgied up every single one of those receipts haven't you, you've made every single one of them up, you didn't do a (not transcribable) of work did you?---I disagree.

Now it's probably just me but just help me 'cause I'm not an engineer?
---Yes.

If we can go to perhaps say 702?---702.

40 702 it's coming up on the screen. Thank you. Let's have a look at that one. You said in, in, that's an invoice dated 2 December 2007 that's the - and the scope of work is provision of ventilation documents and controls for the above site as discussed and you've given him a bill for \$4240. Yes? For your work?---I, I said I didn't give him this, I didn't say I gave him that.

That's not your - you didn't do that work?---I said I didn't give him that invoice.

Okay?---I gave him the eight invoices which he provided to me a copy of it.

Okay. Are there any of the invoices that have been before this Commission that you agree you did some work for, are there any?---Yes.

All of them?---Yes.

You did work?---The ones which I gave, yes.

Right. Try and help me here, let's go to 703. That's dated 2 February 2008?---Yes.

10

That's a bill for \$9550?---Yes.

Provision of ventilation documentation and controls for the above site as discussed?---Yes.

Do you remember what work he did to earn that \$9550?---I told you I didn't give him that invoice.

20

So what, it's, did Ramsey make it up, did he?---He didn't make it up and I repeat what I've said, I did not give him that invoice. I guess that invoice was submitted in my tax returns and purposes of income for three years after the work had been carried. That's that.

Sir, that's a crock. That's a lie isn't it?---I disagree. Why should I lie? I'm saying he, I didn't give it to him. If I - - -

You're lying because you're going to go to gaol, sir.

30

MR STITZ: Objection?---If I want to lie, I will tell you that I gave it to him. I'm saying I didn't give it to him.

MR DOYLE: What's funny, sir?---It's not funny, I don't know.

Excuse me, I'm sorry, Commissioner.

MR STITZ: In fact I'd ask that my friend withdraws that question your Honour.

40

MR DOYLE: I withdraw.

ASSISTANT COMMISSIONER: Thank you.

MR DOYLE: Now let's make this clear and so you have no misunderstanding, I'm putting to you that you never did one iota of work for Ramsey Franjeh, nothing?---I disagree.

Are you able to produce a solitary witness to any of the work that you did for Ramsey Franjeh and his company, one?---I don't recall.

You can't can you?---I may, but I said I can't now. But I may.

Right. Right. For the thousands and thousands of dollars you extorted off him?---I disagree.

You can't produce one person to say you were at any of those sites can you, none, no one?---I disagree.

10 And your friend, your dear friend - - -?---And he's still continue my friend.

- - - who you tell bald faced lies about - - -?---I disagree. He will continue to be my friend, he was my friend and he will continue to be my friend. I may meet him next Sunday in the church and I will shake hands for him. I understand why he has done this to protect his business. My business life is business, my personal life is personal.

20 You see you must have a terrible falling out for him to have told the lies that he must have told in what you say are the lies on 13, 13 June this year in the private hearing?---I didn't say that this is lies.

Yes you did. You gave initial, you heard the evidence on 3, I'm sorry 13 June, my client gave evidence backing up your lies?---How I know what he has done during that time?

Well you've heard in evidence, you've heard in evidence and you said and required to the learning counsel assisting that - - -?---I made him - - -

30 - - - that he must have lied?---I made him lie? I didn't say this. I didn't say that he lied.

Well you said he - - -?---He said he lied in his - - -

He did?---He did.

Because he was scared for his family?---I didn't say, have I threatened his family, have I threatened him? I'm saying I was friends with him and I will continue to be friends with him.

40 Sir I put it to you that you would routinely ring up my client and demand money from him?---I disagree.

He would then produce whatever you wanted?---I disagree.

To cover that up you would bodgie up receipts?---I disagree.

Then when ICAC started sniffing around, you went and conferred with my client to try and cover your tracks?---I - - -

Didn't you?---I disagree.

And now you're telling bald faced lies to this Commissioner on an oath to God?---I disagree.

To cover your tracks?---I disagree.

Nothing further, thank you, Commissioner.

10

ASSISTANT COMMISSIONER: Thank you. Yes, does anyone else wish to cross-examine this witness? Do you wish to re-examine him at all - - -

MR STITZ: No.

ASSISTANT COMMISSIONER: I'm sorry, there's some - - -

MR BONNELL: Commissioner, Bonnell, for the University. Just a few somewhat less exciting questions if I may?

20

ASSISTANT COMMISSIONER: Yes.

MR BONNELL: Mr Faysal, my name is Bonnell, I'm the lawyer for the University. You gave some evidence earlier today in answer to Counsel Assisting?---Sorry, I can't hear.

You gave evidence to Counsel Assisting earlier today regarding your conversation with Mr Jurgeleit, do you remember that?---Yes.

30

And do you agree with me that the effect of the evidence you gave was that part of your conversation with Mr Jurgeleit concerned the fact that he had a visual impairment?---That's right.

And he didn't want that to be known at the University?---He doesn't not want to be known around the University.

Why did he not want that to be known at the University?---Because he would not get the job.

40

How did you think it was consistent with your duties to the University to conceal the fact that a contractor to the University had a disability that might impact upon his ability to do the work?---I don't believe this, that it will have any impact because I was helping him to deliver.

What work did Mr Jurgeleit do?---I believe air conditioning.

And would an inability to see properly affect his ability to do that work? ---He doesn't do the works himself, he engages subcontractors.

Then it wouldn't matter at all would it who knew what his eyesight was like?---Sorry, I didn't get this.

If his eyesight had no impact on his ability to do the work it wouldn't make any difference if people at the University knew would it?---It's up to him, he doesn't want to disclose that matter.

Was your duty to the University or to him?---To the University.

10

Thank you. No further questions.

ASSISTANT COMMISSIONER: Thank you. Yes, well, if there's nothing else, that concludes your evidence and you are now excused, Mr Faysal. You may, you may leave, sir.

THE WITNESS EXCUSED

[3.02pm]

20

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR FAYSAL: (not transcribable)

ASSISTANT COMMISSIONER: You're free to stay or go, it's up to you, sir.

30

MR DOWNING: Commissioner, I think that is the conclusion of the evidence, I don't have any further documents I wish to tender. That will then mean, I take it, that we'll need a timetable for submissions.

ASSISTANT COMMISSIONER: Yes. We'll proceed by way of written submissions in the normal way. Those submissions will be confidential. They will be distributed to counsel but they are to be kept confidential. In terms of your submissions, Mr Downing, would two weeks be sufficient?

40

MR DOWNING: I'll just have a quick check on my, sorry, I'm just going to have to actually turn my phone on to check, I don't have a paper diary any more, Commissioner. I apologise for that. I'm just thinking of what work commitments I do have. Could I ask for three weeks?

ASSISTANT COMMISSIONER: That's fine. All right. Well, Counsel Assisting's submissions will be provided to the other parties three weeks from today. All other parties will have two weeks in which to reply to those submissions.

MR DOWNING: And just one other matter, Ms Schlicht from Wilkhahn wasn't represented during this. Whilst I understand it the order is that the

submissions are limited to legal representatives, could I ask that perhaps in respect of Ms Schlicht and Mr Phillips from Targetti who I'm reminded also wasn't represented, that we ask that that be varied in respect of those persons so that they have a chance to see them themselves?

ASSISTANT COMMISSIONER: Yes. Submissions may be provided to those unrepresented witnesses.

10 **SUBMISSIONS MAY BE PROVIDED TO THOSE
UNREPRESENTED WITNESSES**

MR DOWNING: That also should extend to Mr Faysal's wife, Chafica, whose compulsory examination has gone in and she also wasn't represented.

ASSISTANT COMMISSIONER: Yes.

20 MR DOWNING: I don't understand Mr Stitz is appearing for - - -

MR STITZ: No, I'm not.

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Well, that concludes the inquiry and we are now adjourned.

30 **AT 3.05 PM THE MATTER WAS ADJOURNED ACCORDINGLY
[3.05PM]**