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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY, 2 FEBRUARY 2012

AT 2.00PM

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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, Ms Williams?

MS WILLIAMS: Commissioner, just before I call Mr Anley I omitted to tender the transcript of 18 January which was shown to Mr Magi at pages 184 to pages 195 of volume 14 and I ask that that be marked as Exhibit 13.

ASSISTANT COMMISSIONER: That will, yes, that will be part of Exhibit 13.

10

#EXHIBIT 13 - 184 TO PAGES 195 OF VOLUME 14

MS WILLIAMS: A copy has been provided to Mr Steirn and Mr Neil, if any other legal representative requires a copy I'll provide one to Ms Hughes now, if anybody else wants a copy they might indicate that to the Commission staff and that will be provided. I call Mr Anley.

20 ASSISTANT COMMISSIONER: Yes, Mr Anley, take a seat.

MR ANLEY: Yes.

ASSISTANT COMMISSIONER: Mr Anley, you've been called here to give evidence. You are required to answer all of the questions asked of you. You may seek an order under section 38, the effect of which would be that nothing you say can be used against you in future proceedings. Do you wish to seek an order in those terms?

30 MR ANLEY: Yes, please.

MR MCGIRR: Just for the record, I represent Mr Anley. My name's McGirr, M-C-G-I-R-R.

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

Mr Anley, you are required to take an oath on the Bible or make an affirmation to tell the truth.

MR ANLEY: An oath, please.

ac, you are required to take an oath on the Bible or make an affirmation to tell the truth.

MR ANLEY: An oath, please.

ASSISTANT COMMISSIONER: Yes. Could the witness be sworn.

ASSISTANT COMMISSIONER: Yes, Ms Williams?

MS WILLIAMS: Mr Anley, could you state your full name and address please, just for the record?---Todd Mathew Anley, XXXXX.

10 Thank you. Thank you. And you've made a statement to the Commission in connection with this investigation. Is that correct?---That's correct.

On 19 January, this year?---That's correct.

Commissioner, Mr Anley's statement is at pages 337 to 363 of volume 7 and I ask that those pages be included in Exhibit 7.

ASSISTANT COMMISSIONER: 337 to 36- - -

20 MS WILLIAMS: 363, Commissioner.

ASSISTANT COMMISSIONER: 363. Yes, those pages will be part of Exhibit 7.

#EXHIBIT 7 - PAGES 337-363 IN VOLUME 7 BE INCLUDED IN EXHIBIT 7

30 MS WILLIAMS: Thank you, Commissioner. Mr Anley, did you have a conversation with Mr Magi in about November 2008 in connection with a quote that Mr Magi was preparing for The University of New England for work relating to site plans?---I do remember having a discussion with Mr Magi around that time regarding that work, yes.

And do you recall in the course of that conversation giving Mr Magi an estimate of how many hours you thought it would take to complete the work for which he was preparing the quote?---To the best of my recollection, yes.

40 And just to be clear, the work involved was uploading or incorporating the University's site plans onto the Cardax computer system, that was one aspect?---Yes.

And the other aspect was modifying those site plans once on the system to record the location of the Cardax equipment. Is that correct?---That's correct, yes.

Are they the two aspects of the work, does that fairly describe the work in full?---That's fairly, yes, close enough. Excuse me.

And at the time you had the conversation with Mr Magi, is it the case that you had already been doing some of that work, that is before November 2008?---That's correct.

10 What work had you done before November 2008?---Oh, made contact with Cameron Marshall at the University requesting a copy of one site plan so we could look at what resolution and what format, whether that be a JPEG or a Bitmap or the various forms, I could get hold of that and then try and put it into the system to see what else needed to be done from there.

And that was the extent of the work that you'd done prior to November 2008 as best you- -?---Pretty well, most of the background and preliminary work of working out how we were actually going to do the job, that's correct.

20 Can you remember how many hours you had spent doing that work that you've just described before November 2008?---No, I don't, I couldn't put a, couldn't put an hour figure on it but it would be, at my trips to the University, I might have spent an hour on one day and two hours the next day doing it, possibly it would be a few hours, possibly eight or nine, I couldn't tell you. on one day and two hours the next day doing it, possibly it would be a few hours, possibly eight or nine, I couldn't tell you.

MR STEIRN: Might the witness just slow down a bit?

ASSISTANT COMMISSIONER: Yes, would you mind- -?---I will, sorry.

30 - - -slowing down a little?

MS WILLIAMS: We're all in a hurry today, Mr Anley, but we need to - - -?---No worries.

40 - - -understand your answers. And at the time you had the conversation about the quote with Mr Magi, how many site plans did you understand were required to be uploaded onto the system and modified?---From my understanding, any of the buildings that currently had any of the Cardax equipment in them should, I should try and, we should try and get those drawings and then put them onto the system.

And did you, did you know how many plans that involved?---Not off the top of my head, no, no.

And you gave, the estimate you gave Mr Magi in the conversation in November 2008 was an estimate of the time that had already been spent doing the work prior to that time and that was likely to be spent in the future. Is that correct?---That's correct, yes.

And the future time related to obtaining, uploading and modifying all of the plans for buildings which had Cardax equipment installed in them. Is that right?---From my recollection that's correct.

I'm suggesting to you that there are about 110 site plans that fall within that category. Do you recall that number?---I wouldn't be able to tell you the number, obviously some of the site plans refer to one building if it has one floor, if there's a multi-storey building then it would be multiple site plans for that one building, so I wouldn't guess.

10

What was the estimate that you gave Mr Magi when you had the conversation with him in November 2008?---Whilst I can't recall the specifics I did relay back to Neville I would assume it would take just over a week, maybe seven days to get the bulk of the work done, get all the information together and then from there we would then go and update things as we added them later on in the jobs for any additional work that we may do.

20

And up till that point in November 2008 you had done the preliminary work that you described earlier. Correct?---In approximately I think only 'cause I seen the emails, about June/July of 2008 I started doing some of the preliminary work and I believe some more of it was done in November 2008.

Was the work completed?---Well, the work is an, it's a, it's the documents that needs to be adjusted all the time. How long is a piece of string, you can't physically, the job would never have a clear start and a finish date.

30

All right. I accept that. Let me be clear. There would always be a need for ongoing modifications to site plans. Correct?---Yes.

However, the job that Prosys was being asked to provide a quote for was to upload and, sorry, upload to the Cardax system existing site plans and modify those plans to show the Cardax equipment as at that time. Correct? ---That's correct, yes.

So that the University would from that point have a correct record which could then be modified on an ongoing basis?---Yes.

40

And was the work of uploading the site plans and showing the location of the Cardax equipment as at that time, was that work completed? ---Completed by when? Did you have a date? The work was certainly not completed in 2008. There was still some ongoing work in 2009 and as I recall there was also some work in 2010.

And what's the nature of the work that you can recall in 2010?---2010 I believe it was a bit of an audit in conjunction with the maintenance we were doing. We had a copy, a hard copy if you like of the floor plan, as myself

and the other technicians were performing the maintenance checks on the site we would then do an audit and confirm that door was still there and tick it off on our paperwork and then go and check that with the corresponding plans on the (not transcribable)

10 All right. So putting to one side that audit thought is it the case that by the end of 2009 do you say that as at that stage all site plans for buildings with Cardax equipment installed were uploaded onto the Cardax system?---To the best of my recollection I believe by the end of 2009 the plans were updated, correct.

Do you recall by when in 2009 that happened or - - -?---I would suggest - - -
- - - you can't be more specific?---No, no, I can't be too specific, I'd suggest towards the end.

20 And as at the end of 2009 do you say that all of those site plans that were uploaded had been modified to show the then existence of the Cardax equipment?---I can't recall completely because obviously it was a few years ago but to the best of my, sorry, to the best of recollection, yes.

And so the seven day, you refer to thinking that you told Mr Magi in November 2008 it would probably take about seven days?---That's correct, that's my recollection, yes.

30 But in fact that work was done in small increments over a period of two years, is that correct?---That's correct. Whilst performing other tasks at the University, waiting for the machines to upgrade or wanting things to happen on, on a particular site I would then pull the file back out and continue doing more work on it till the job I was working on was ready to go again and I'd put it away and start again.

I've been asking, you've, you've been indicating that you did this work. Was there anybody else from Prosys who was involved in performing this work?---Absolutely, as I've already indicated to the court there was Imran Cuttilan, Carl Lorenz, a gentleman by the name of Neil Turner and another employee by the name of David (not transcribable) was involved in various stages obviously.

40 Could Mr Anley be shown Exhibit 9, please, at page 141. Mr Anley, have you seen that document before?---Only in the court.

All right. It's not a document that you prepared?---No, absolutely not, no.

Were you aware of the invoicing arrangements for the site plan work?---I'm not sure I understand your question.

Right. Did you know when Prosys issued an invoice to the University for the site plan work?---I was, I believe, yes, I think, yeah, in December, yes, I did, I was aware of when the invoice was asked for by the University and when it was issued.

10 You say the invoice was asked for by the University. Was that a request directed to you in the first instance?---I can't recall, I believe so, I was obviously the site contact there, it was requested by Mr McCallum as indicated to the court by other people, the University's financial years run in the calendar year and it was nothing unusual for jobs of a small nature and that were well and truly underway to have the invoices put in to tidy up their financial records for the end of the year.

All right. So the work was by no means complete in December, that's correct, isn't it?---No, it was not complete, no.

And Mr McCallum asked you, you think, to arrange for an invoice to be issued in December, 2008?---I - yes, I believe so.

20 The Cardax computer system records activities on the system such as the addition and modification of site plans doesn't it?---That's correct.

And that's a record that's made automatically by the system whenever an activity of that nature occurs?---That's correct, when an operator or user does any changes or indeed uses their card it logs an event.

30 And one can generate reports from the system showing when site plans have been added and modified. Correct?---Yes. A competent operator could generate a report like that, yes.

And those reports would be an accurate report of what has happened on the system because of the way the system works by making those records automatically as things go?---Depending what that data is on the database, yes, it could be an accurate record and it generally would be.

40 Right. I'm going to show you a bundle of documents, Mr Anley. You can see that the documents are numbered from page - commencing at page 102 through to page 257 and Commissioner, you have a copy of these documents in volume 13. Could you look please at the, initially the pages from 102 to 130?---Would that be the numbering on the top right-hand side there would it?

Yes, the top right-hand side?---Yep.

Thank you?---Yeah, I'm familiar with these, this report. I've seen it tabled as evidence.

Are you familiar that as a site configuration report generated by the Cardax system?---Yes.

And do you see by the site name on page 102 University of New England that it relates to that site?---Yes, I do.

And do you recognise the plan name appearing in that report as plan names relating to the University of New England?---Yes, I do.

10 And do you agree with me that the information shown in that report is the date on which each site plan was created?---That's correct.

And that creation date is the date on which it was uploaded into the Cardax system. Correct?---That's correct, yes.

And then the other information it shows is the date on which it was last modified. Is that correct?---That's, that's correct, yes.

Could you then look please at the report at pages 131 to 138?---Yes.

20

Do you recognise that as a further report generated by the Cardax system? ---That's correct, yes.

Do you agree with me again it relates to the site for the University of New England?---Yes.

30 And I want to suggest to you that the information shown in this report was in effect more detailed behind the information shown in the site configuration report in that it identifies the name of the operator who added each of the site plans that I referred to in the site configuration report? ---Yeah, it does indicate the person that was logged on at the time the changes were made, yes, that's correct.

And the person who was logged on would in most instances, if not all, be the person who uploaded the site plan. Is that correct?---Possibly, yes.

40 I want to put to you one possible exception to that and that is this, I'm instructed that the reference to Mr Jason Richey in the first entry on the report of 131 was in fact most likely an instance when you or somebody from Prosys may have uploaded a site plan whilst Jason Richey was logged on?---Yeah, absolutely, absolutely. I do recall either myself or Mr Richey did the first site printouts together.

And then could you look at finally please at the report that commences at page 139 and runs through to page 253. Perhaps if you focus in the first instance on pages 139 to 149, which cover the period 2008 and 2009? ---Yes.

Do you agree that that's a further report generated by the Cardax system?
---Yes.

And it's a report that relates to the University of New England?---Yes.

And this report shows further detail again in that it shows not only additions of site plans but also modifications of site plans and the nature of those modifications. Do you agree?---This report seems to be an identical nature and set out to the previous report.

10

If you compare for example the entry for 17 July, 2008 on page 131?---Yes.

Do you see there that that entry identifies only the fact that someone logged on as Jason Richey added a particular site plan C13 Health Building. Correct?---Yes, the first entry, yes.

And if you compare that to the entries at page 139 for 17 July, 2008?
---Okay, yes, it is more detailed. Yes, you are correct.

20

And do you see there that one can also identify the particular modifications made to C13 Health Building site plan?---Yes.

And can I ask you to direct your attention please to the times that go with the entries on page 139 for 17 July, 2008?---Yes.

Do those times indicate that the total time that was spent on that occasion in uploading and then modifying site plan for C13 Health Building was approximately 30 minutes or a little less from 18 minutes past 1.00 to 43 minutes past 1.00?---Yes, that's correct.

30

Thank you. Mr Anley, I want to suggest to you that an analysis of this report shows that by the end of 2010 some 59 site plans out of a total 110 site plans had been uploaded on to the Cardax system?---If that's what the report indicates. I'm curious as to where, sorry, I'm just curious as to where the 110 comes into it.

That's the total number of site plans recorded on the report that commences at page 102 to page 130?---Okay.

40

What I'm suggesting to you is that the work that was done by you and your colleagues from Prosys during 2008, 2009 and even into 2010, take it to the end of 2010 - - -?---Yep.

- - - did not complete the work of uploading all of the University site plans into the Cardax system?---Oh, I disagree. When you say upload, the information was on the (not transcribable). Whether things may have been modified or changed or added, that's a possibility. The, to the best of my recollection by the middle of 2009 the majority of the site plans had been on

and certainly by the maintenance visit in 2010 that the other gentleman indicated we did the complete site audit. So it was my recollection that all the work was done.

Do you agree that once a site plan is added into the system or loaded on to the system, whatever terminology we use, it should appear on this site configuration report that commences at page 102. Do you agree with that?
---If the configuration report has been accessed correctly, yes.

10 And in the interest of fairness I'm just going to put it to you one more time that – just pardon me a moment. If you can turn to page 117 of the bundle that you've been given. In fact you need to read the last line I think on page 116. Do you see there that there's a site plan for a building described as C33 TC Lamble created on 20 June, 2010?---Yes.

And if you take a moment to look through pages 117 to page 130 and I'll ask you whether you agree that all of those site plans referred to on those pages were added after the end of 2010?---I'd agree that some of those site plans were created after 2010, yes, that's correct.

20 Those being the ones shown from C08 Madgewick L1 on page 117 through to the end of 130. Is that right?---That's correct.

So having – the benefit of having looked at that record do you maintain that Prosys had completed adding all of the site plans on to the Cardax system by the end of 2010 or do you think you may be mistaken about that?---No, I believe that I uploaded all the site plans that were available to me at the time and that were current. Obviously with buildings changing and rooms changing, floor plans changing the drawings do change a little bit, well quite a lot actually.

30

ASSISTANT COMMISSIONER: Commissioner, I have nothing further for Mr Anley.

ASSISTANT COMMISSIONER: Can I just ask you Mr Anley - - -?---Yes.

- - - you were shown the invoice on 141 for the \$7,000?---Yes.

40 Do you recall that?---Yeah, I do, yes I do recall seeing the invoice, yes.

It says on the invoice all work is complete. Do you know who would be responsible for putting that there?---It may have been someone in accounts or the someone from the office. I certainly don't have any part of that document, any knowledge or, or anything to do with that document.

Who gives the information to Accounts to create this invoice?---I believe once the job is complete, as again I said, the University requested the invoice early, it goes from, from myself the Site Supervisor or the Job

Supervisor into the office and say the work's done. They go through and check all the relevant commissioning sheets and document are there and then from there I believe they make up an invoice as per the quotation.

As I understand it most of this work wasn't done at this time?---In 2008, as I've already indicated, but yeah, that would be correct. But there was quite a lot of work done in 2009 and again in 2010.

10 Yes. Well I'm just trying to find out how that got on there?---I honestly don't know. I don't have anything to do with the accounting software or anything to do with invoicing within our job. I try and keep myself as Operations separate from anything to do with Sales.

All right. And now you've been here, you've heard the evidence about the \$7,000 donation to the - - -?---Yes, I have.

Did you know about all that at the time?---At the time I was not aware of it. I obviously know now. No, I was not aware of it at the time.

20 So when Mr Magi was discussing with you the hours for the Cardax system et cetera - - -?---Yes.

- - - he didn't at that time tell you anything about Mr McCallum's request for the donation?---No, I was not aware of anything at the time.

Yes, thank you. Yes.

30 MS WILLIAMS: Commissioner, I should indicate that I tender the bundle of documents pages 102 to 257 that were shown to Mr Anley and ask that they be included in Exhibit 13.

ASSISTANT COMMISSIONER: Yes, they will be included in Exhibit - - -

40 MR STEIRN: Well I object to the tender at this stage. I may be mistaken, but the first time I've seen these documents was shortly after the inquiry commenced at 2 o'clock. As a matter of procedural fairness I haven't had a chance to look at them nor get instructions. In essence, I don't know whether this has been part of some sort of previous tender bundle, but I certainly haven't seen them. And I object to the tender before I get some instructions on what they truly mean because it's clear on the evidence these were not generated by Prosys, they were generated by the University itself. So these documents aren't even the documents of this particular witness.

ASSISTANT COMMISSIONER: They're not but he's identified them as documents that are produced by the system that they installed.

MR STEIRN: That's true enough, but there's still 257 pages and as a matter of procedural fairness, I think the parties who are interested in this particular

aspect should be able to look at them and get some instructions. Because everything else has been on the table. If I'm wrong I'll sit down, but I've never seen these documents before. So therefore it is unfair to then tender documents without showing it to the concerned, to the concerned parties for them to look at it and consider their positions as a matter of procedural fairness.

10 ASSISTANT COMMISSIONER: Well, you'll certainly be entitled to make submissions in respect of the document and, I mean, we're only interested in getting at the truth here, Mr Steirn.

MR STEIRN: So am I.

ASSISTANT COMMISSIONER: So I - yes, well, that's good, we have a common purpose. I'm sure that if Prosys wished to, you know, produce something else they can, they're certainly welcome to do so if they have other documents that, that contradict this but I think it - well, I think it needs to be tendered anyway to identify what the witness has just been questioned about.

20

MR STEIRN: It (not transcribable) tendered.

ASSISTANT COMMISSIONER: I think the witness has identified the documents. He's agreed that this is the sort of information that the system tracks and records. I will accept the tender at this time.

MR STEIRN: But you also appreciate in allowing us, allowing us permission to appear then there's a tacit acceptance we're entitled to look at any document bearing on what our clients or various clients have to say. As a matter of procedural fairness we need to be on top of that to deal with any suggestion or any allegation arising out of these documents. Now, as I understand how these things proceed some time in the future the Counsel Assisting will be telling the court, telling the inquiry rather, what matters are relevant or not relevant. It might be all too late then to do it.

30

MS WILLIAMS: Commissioner, may I make a number of points?

ASSISTANT COMMISSIONER: Yes.

40 MS WILLIAMS: Firstly, the bulk of the documents that have been shown to Mr Anley and which I am now seeking to tender have been included in Exhibit 9 at pages 85 to 138 from the outset of the inquiry as I understand it. The documents at those pages, commencing at page 85, is an activity report of the same kind as the report that I have just shown Mr Anley commencing at page 139 of volume 13 with the exception that the dates commenced, the dates in the version already in Exhibit 9 commencing November 2008. The dates in the version at page 139 of Volume 13 start at 17 July, 2008 and indeed the reporting period starts at 1 January, 2007 in fairness to Mr Magi

and by extension Mr Anley, as a result of the questioning by Mr Steirn and Mr McGirr of Mr McCallum last week to the effect that work was done in July 2008. That is the difference between what has already been in evidence and what is now tendered. The other difference, of course, is that there are two additional reports from pages 102 to page 130 of volume 13 which provide the information, the same information in a different form in a more helpful level of detail. As to the source of the documents I also seek to tender now pages 96 to 101 of volume 13 which other representatives have not yet seen. It's a statement of Mr Martin Lilford who has prepared the reports shown to Mr Anley and again, that statement has been prepared very recently in view of the approach that became apparent from Mr Magi and Mr Anley's counsel's questioning of Mr McCallum.

MR STEIRN: Well, that makes my point because I've just done the maths. My friend talks about pages 85 to 138 which adds up to 53 pages, this document that (not transcribable) before the inquiry is 257 pages. It's obviously a separate document with separate data and we now know through the concession by Counsel Assisting there's a fresh statement dated 30 Jan from Mr Martin Lilford which I'm reading for the first time, or rather I'm looking at for the first time, which makes the point that I need to consider this depending on how this inquiry is going to deal with this aspect. That also is a matter of procedural fairness.

ASSISTANT COMMISSIONER: Yes. Well, procedural fairness is one thing, Mr Steirn, but in an inquiry of this nature as you'd appreciate the evidence moves along, points are made and at Counsel Assisting has pointed out this issue has been raised from the first day, the issue of what records there were of the work, where the work was done. This was all raised with Mr McCallum.

MR STEIRN: (not transcribable)

ASSISTANT COMMISSIONER: Some of these types of records have already been in the volume. Well, as I understand it the fact that this was a record of access to the Cardax system, some of these pages were included in volumes that have been provided since the beginning of the inquiry. Am I correct in that, Ms Williams?

MS WILLIAMS: Almost, Commissioner. It is a different report that's already been included but it's the - - -

ASSISTANT COMMISSIONER: Right.

MS WILLIAMS: - - - it's the same type of report - - -

ASSISTANT COMMISSIONER: Yes.

MS WILLIAMS: - - - generated by the same system in relation to a date range starting slightly later.

ASSISTANT COMMISSIONER: You've extended the date range - - -

MS WILLIAMS: Yes, and created a new - - -

ASSISTANT COMMISSIONER: - - - because issues were raised about work being done earlier.

10

MS WILLIAMS: Yes.

ASSISTANT COMMISSIONER: So it's not a new issue and it's not even a new form of evidence, its an extended version of it. I don't - I mean there was opportunity to take instructions in respect of this issue generally prior to this and I presume that the statement is simply identifying and producing the reports. Is that correct?

20 MS WILLIAMS: It does, Commissioner, and may I also make this point: Mr Magi said in his evidence today he doesn't know precisely when the work was done. He's made some inquiries from his staff and he thinks based on that it was done between May 2008 and January 2009. Mr Anley has just given a different date range. This is simply a system-generated document which shows when the work was in fact done and it's difficult to understand Mr Steirn's difficulty with a record of that nature when his client's evidence is he's not sure when the work was done.

ASSISTANT COMMISSIONER: Yes.

30 MR STEIRN: I don't want to repeat what I've just said but quite obviously this is a fresh statement, the date speaks for itself. It's 30 January, 2012. I haven't seen this document. In fact, I think the last (not transcribable) in the inquiry was last week so therefore I haven't seen this document at all. There's no proper reason why this document couldn't have been given to us much earlier. This is an inquiry, not a trial by ambush. We're entitled to procedural fairness. The Commission talks about this as an inquiry but the inquiry itself is based on procedural fairness unless the statute of the section itself overrules procedural fairness. I've had a look at what the Court of Criminal Appeal, Court of Appeal has had to say in Chaffey and procedural
40 fairness is still part and parcel of every ICAC inquiry and it should be afforded where possibly. My complaint is simply this: I'm seeing this document for the first time. It may or may not be innocuous, I don't know but it certainly is a matter of commonsense if not fairness. I'm entitled to get some instructions as to what it truly means given this document is not generated by Prosys. It's not one of our documents. My friend admits or concedes - if the witness concedes certain things that not be, might not be the end of it. There's 257 pages and there might be some other explanation which could also assist the inquiry at the end of the day.

ASSISTANT COMMISSIONER: Yes, which you'll be given every opportunity to give another explanation. All explanations do not have to be given through witnesses here, they can be given through submissions and as Ms Williams points out your, Mr Magi, it appears from his own evidence, would have nothing to say about this because he doesn't, he didn't know anything about how many site plans there were or how or when they were uploaded. He said he relied on what Mr Anley told him. Mr Anley has now identified these as printouts by the system they installed and maintained. I
10 don't see really what Mr Magi will be able to add to it.

MR STEIRN: No, but Mr Magi of course is a, is a director of Prosys.

ASSISTANT COMMISSIONER: Yes.

MR STEIRN: Prosys is part and parcel of this inquiry and at this stage has been adversely named. For that reason alone we're entitled to procedural fairness as to what this is - mean, what this will mean at the end of the day and how, how Counsel Assisting puts the final position in relation to this
20 matter. I'm just concerned professionally that it might just - we might not have been able to look at it properly at a relevant time, a relevant time surely is when the inquiry is still current, especially when the particular witness is in the box who may share light. My second question or second submission is Mr Martin Lilford going to give evidence? If the statement is going to be tendered I object to the tender because I want him here for cross-examination but I can't cross-examine him without instructions or without fuller knowledge of what 257 pages mean.

ASSISTANT COMMISSIONER: Mr Steirn, if you eventually form the
30 view that you want to cross-examine this witness I would be happy to hear from you. As with all of the statements that are tendered without the witness being called, and there have been quite a number of them, its always been on the basis that any counsel who wishes to make a submission that the witness should be made available for cross-examination can do so and you will certainly be allowed to do that and if necessary we would reconvene to hear from that witness if it was considered - - -

MR STEIRN: On that basis I'll withdraw my objection.

40 ASSISTANT COMMISSIONER: - - - that you had a point but I must add you would have to persuade me that there was some utility so yes, that's the way it is. Take your instructions. If you want to come back and say in fairness this witness should be called I am perfectly happy to consider that.

MR STEIRN: Well, I appreciate - I can't do it today and I appreciate - - -

ASSISTANT COMMISSIONER: No, I appreciate that.

MR STEIRN: But on that basis I withdraw the objection.

ASSISTANT COMMISSIONER: Thank you. Yes?

10 MS WILLIAMS: Yes. In that case, Commissioner, might pages 96 to 257
be included in Exhibit 13, please.

ASSISTANT COMMISSIONER: Yes.

MS WILLIAMS: The statement and the documents.

ASSISTANT COMMISSIONER: Yes, they will.

20 **#EXHIBIT 13 - PAGES 96-257 OF VOLUME 13 - STATEMENT OF
MARTIN LILFORD AND DOCUMENT TO BE PART OF EXHIBIT
13**

MS WILLIAMS: Thank you, Commissioner. And I can indicate that I do
not propose to call Mr Lilford and I've heard the exchange between- - -

ASSISTANT COMMISSIONER: Yes.

30 MS WILLIAMS: - - -the Commissioner and Mr Steirn. I have, I have
nothing further for Mr Anley.

ASSISTANT COMMISSIONER: Yes. Does anybody seek to question Mr
Anley? Yes, Mr McGirr?

MR MCGIRR: Sir, in relation to the quote that you gave to Mr Magi, is that
a consistent quote or a reasonable quote in relation to the hours that it would
take to carry out the work?---Yes, I believe so.

40 And in respect to these particular Cardax system you'll not that there's the
name Richey mentioned there?---That's right. He was a former supervisor
of SNP and they, basically Col's right-hand man in the security sense for a
couple of years.

Did you train any of the security personnel there in the use of these
particular systems?---Oh, absolutely, we worked hand-in-hand with each
other. Even though they were a competitor they, they were still representing
the University, yes.

And in respect to people using other people's logins, I take it it's called a login?---Yes, that's correct.

Was that a common occurrence?---Yeah, it was. In hindsight now sitting here in front of the Commission, probably not the smartest thing to do, but it did happen on a regular basis. If a other user was logged in, bearing in mind it was a small office and they had the same privileges I would need to maintain change or do any sort of programming things I would just use their logon, same as they would use mine. As I said, been working at the
10 University for quite a few years and built up quite a rapport with some of the staff there so there was never any issue.

So in respect to, when you say it's not the smartest thing to do, for example an audit to show who had logged onto these particular systems, that would make it un-useful as far as data collection goes?---That's correct.

Who could access what particular areas?---That's correct.

Is that correct?---That's correct, yes.
20

In respect to the site plans where the Cardax systems were, you gave evidence that you understood that all the sites had the Cardax systems on them, all the sites in relation to diagrams or site plans?---Yep, any of the buildings that we'd installed, obviously not all the buildings up there have the Cardax equipment in them, therefore there would be no need to generate a site plan for those.

Right. And in respect to these particular plans you said I think, and I'm paraphrasing a bit, but places changed, rooms changed and the like. Is that
30 correct?---That's correct, yes.

Did that happen throughout this period of time, 2008 to 2010?---Absolutely. Universities are notorious for doing upgrades and changing floor plans around, it happens quite a bit.

ASSISTANT COMMISSIONER: Thank you.

MR STEIRN: With, with your leave, Commissioner, can I ask a question arising out of that which I'm not sure, might- - -
40

ASSISTANT COMMISSIONER: Yes, Mr Steirn.

MR STEIRN: I appreciate I should have gone before Mr McGirr, but Mr Anley, this document 102 to 257, that's not your document, is it?---No, that's correct. It looks, appears it's been created by a Martin Lilford on 28 January of this year.

But as I understand your evidence, are you saying the operators recorded there may or may not reflect the true position as to who was operating at the time?---That's correct.

Why is that?---Well, as I indicated to Mr McGirr, if I walked into the room and there was another operator on, for instance Mr Richey, being a supervisor he had administrator rights to the computer so I'd simply go to that computer, do my changes and walk back out and continue with my job.

- 10 Is that, do I take it, by doing it that way you save time?---Well, yes, from the fact of the point I've got to login and logout then the other person's got to log back in and remember where they were at, like, if they had other jobs open on the screen, whatever they were doing, I'd certainly do my little task, shut down what I was doing and walk out.

So, and that was done on a regular basis, was it?---Oh, yeah, absolutely. There would be reports that you could generate on other people that have me doing, them doing work under my name, absolutely.

- 20 So what you're saying is, this particular document, given what you've said about it, doesn't truly reflect the true position?---No, that's correct.

Because a document merely generates the name of the operator operating at the time?---That's correct. The other thing I'd like to add here too is obviously these dates are from the minute I hit apply or OK to save any changes, you must, there's obviously a lot of work that goes in behind the scenes.

- 30 Just slow down, please, just slow down?---There's obviously a lot of work that goes in behind the scenes to determine what size an image should be, what needs to go on it before it's physically put on its electronic form that would create an electronic signature. There's a lot of paperwork beforehand, if you like, manual walking around and having a look around that would not be indicated on here.

- 40 So even the times recorded don't reflect the amount of time actually spent by Prosys representatives or technicians?---No. All that time reflects is the time it may have taken to do a change. So for instance if I had to move an icon from one side of the screen to the other, it would take three seconds, bang, that would be there.

Just top there so we understand what truly occurred. If you were obliged to, first of all, what do you mean by an icon?---For instance a door or, yeah, like, an icon on your, on your desktop on your screen, like a little folder or a door, a device, we call them icons.

Yes?---It displays what particular equipment is in the area.

So do you physically need to know what it is so you know what you're changing?---Yes, absolutely.

Can you give us an example, a working example, please?---For instance if we go and do - -

10 Take this particular room?---Okay. For instance I see there's two Cardax 125 readers on the doors here, for instance on the plans I'd have to know what type of reader it is, whether it's got a mortise lock hanging of it, its exact, what is exactly there as opposed to there is just a door here, so to speak. And it also depends on the function and the operation of these doors. They may want when the door is open it makes the site plan glow bright red to say I'm in alarm, it could be that it sets off other, other things within the site plan, it's, it's quite a complex thing.

20 And are you able to give us an average as to how long it would take a technician such as yourself to carry out the work and the time involved before you press a button or do what you do to move the icon?---Oh, for instance if I hadn't been to the building before we'd certainly print out hard copies of the drawings and then physically walk, walk the perimeter of the building first, starting at the ground floor going up and marking down all the devices with a highlighter, correlating that information and then going back to the head end, it would be dependent on how long or how big the building was or how much equipment's in it but it would be quite a few hours.

So when you do your timesheets on what basis do you do your timesheets? ---On my timesheets would be the total hours spent on the job.

30 Which would be completely different?---That's correct.

So this, this, end of the day logically this particular document, the last document that was shown to you, doesn't reflect the time utilised by Prosys? ---That's correct. It only logs the time it took to do the physical change, not any of the work behind it.

I think I understand. Thank you.

ASSISTANT COMMISSIONER: Thank you. Mr- - -

40 MR NEIL: Commissioner, I'm sorry to do this, but something's just been drawn to my attention and I wonder if I might ask one or two questions?

ASSISTANT COMMISSIONER: Yes, you may. I just want to ask one first.

MR NEIL: I'm sorry, Commissioner.

ASSISTANT COMMISSIONER: Come forward. Mr Anley, we've had no timesheets produced to us that relate to any of this work as I understand it. Did you and your co-workers ever do any timesheets for this work you were doing?---The timesheets are filled out as Mr Magi indicated once a week. Every time we were up there at the University we'd be doing more than one job and against company policy, and I get in trouble for it quite regularly, I would suggest I've written on my time sheet three out of the four jobs I've done for the day, it's generally what I've done for the bulk of the day for eight or ten hours, if it's taken me seven hours to do this and thirty minutes to do this, I certainly don't log it all, it's, particularly when it's- - -

So the short answer is there's no timesheets that record any of this work.

MR STEIRN: No, I object to that, that's not his answer.

ASSISTANT COMMISSIONER: Well, we've had none produced to us. Where are they?---The timesheets from my point of view are only relevant to our office from the point of view if we're charging a customer on a quote.

20 Yes, I don't care about that. What I'm asking you is, did you ever record the time you spent uploading and modifying plans on a timesheet anywhere? ---I think so, I can't recall. Obviously it's been from '08 and I do one every year, every week, I would assume so.

You'd assume so but- -?---I would assume so.

So you don't know why those timesheets wouldn't be available or have not been produced?---No, I do not.

30 It's possible, isn't it, you didn't record it because you just viewed it as an incidental thing you were doing?---It's, it's likely if I was, as I tried to indicate before, if I was only spending 20 minutes on it here and half an hour here, it would have just been absorbed in a bigger job, like.

Yes?---Yes.

40 So it's quite possible you never recorded it on any timesheet as a specific entry?---Possible, that's correct. It would certainly say that I was at the University and the hours worked and the dates but wouldn't necessarily be broken down into each specific job. As I indicated on many a day there would do several different jobs or many different tasks.

Yes. Yes, Mr- - -

MR STEIRN: Can I ask a question arising out of your question, Commissioner?

ASSISTANT COMMISSIONER: Yes, quickly, Mr Steirn.

MR STEIRN: Thank you. Is that the reason, because there was no breakdown of actual work done, it was just described as work done for the University, that you only gave Mr Magi an estimate of five to seven days (not transcribable)

MS WILLIAMS: I'll get to that.

10 ASSISTANT COMMISSIONER: No, sorry, that, because he gave that at a time when most of this work we're talking about hadn't been done, that, you know, that wasn't, the reason wasn't that it wasn't recorded.

MR STEIRN: We might be at cross purposes, it might be late in the day and I'm just missing something. Can I just recap for a moment. I withdraw the question. Is it your evidence thus far that you did not further delineate actual work done in relation to the CAD drawings, it was just part and parcel of a timesheet because you might have been there for other reasons? ---That's correct.

20 So when Mr Magi asked you to estimate that amount of time in relation to the work you'd done and future work how did you arrive at that time?---I looked at how many hours, what days, I tried to work out what I'd spent with the initial set up and how long I thought it would take to get the drawings on the system. That's pretty well how I come to my estimate on time.

So those specifics wouldn't show up at any time so it'd be part of a whole? ---That's correct.

30 Thank you.

ASSISTANT COMMISSIONER: Yes, Mr Neil.

MR NEIL: Sir, could I just, I'm sorry, I represent the interests of the University of New England. I wonder if I could just take you back as a starting point to the conversation that you say you had with Mr Magi in which you told him that it would take you just over a week to complete the work of uploading the site plans?---Yes.

40 Modifying and uploading and the site plans?---Yes.

Now at that point of time in your mind, could I ask you whether prior to that time there had been a period in which to your knowledge Mr McCallum had been suggesting that Prosys should do the work of modifying and uploading site plans as part of its original contract?---From what I hear as part of the evidence, from what I've heard from other statements, yes, I agree with that. But at the time though I did not- - -

Right? Now, just- - -?---I wasn't aware of any of that.

MR STEIRN: Let him finish, please.

MR NEIL: No, no. Now, I'm sorry, so you've become aware of that later but not at the time - - -?---Yes, but not at the time - - -

- - - of the (not transcribable)?---No.

10 Were you aware at that time, the time prior to the point of your conversation with Mr Magi that there was an issue between Prosys and the University about whether Prosys should be paid for doing the work of modifying and uploading the site plans?---No, I was not aware of any, any conflict, as you put it.

Now you did do some work you say prior to your conversation with Mr Magi about eight or nine hours - - -?---That's right.

- - - you've told the Commissioner?---Yeah, that's my recollection, yes.

20 Now why were you doing that work so far as you understood it?---Well first of all Mr McCallum asked me can we do the site plans, my short answer, my best recollection was yes, the Cardax product can obviously do it. You need to talk to me about what sort of drawings you have available for me and what we can do to those drawings and then put them into the system.

So your recollection is you were doing that work at the request of Mr McCallum. Is that right?---That's right.

Did you discuss that request with Mr Magi?---I can't recall.

30 Was it your practice to do work that Mr McCallum asked you to do without first clearing it with Mr Magi or somebody else at Prosys?---Depending on the work, absolutely.

40 And what was the point of, of distinction?---Well obviously it was going to take me a lot of time or cost the company money in regards to equipment and that's clearly not on. A lot of the time, and again using other universities as an analogy, they will come and get us, our expertise and say before we do this job can you please give me some options on the best locking mechanisms, the best type of (not transcribable) a bit of preliminary work, for want of a better term, I'm supposed to be an expert in my field after all these years, they try and use some of that knowledge to make the job, they're trying to use my knowledge to make the process better or a bit more clearer from their sake, like Mr McCallum a Facilities Manager, I only deal in security locks, that's what I do, that's what I talk about all day.

So is it likely that when Mr McCallum made his request of you, you treated the work that he asked you to do as being merely preliminary work that you could easily do in conjunction with your other work?---Yes.

And therefore would not need to clear with Mr Magi?---That's correct. I certainly didn't discuss everything I did with every client with Mr Magi.

Yes. There was no discussion was there between you and Mr McCallum at the time when he made that request or prior to your conversation with Mr Magi when you discussed with Mr McCallum the prospect of paying, the University paying for that work?---No. At that time it was purely, I believe conversation was along the lines of, mate, we're looking at doing this, can I do it and how would I go about doing it.

10

Thank you. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes, if there's nothing else then you may be excused Mr Anley?---Thank you.

THE WITNESS EXCUSED

[2:54pm]

20 ASSISTANT COMMISSIONER: Yes, Ms Williams.

MS WILLIAMS: Commission, just before I call the next witness I should indicate I do not propose to recall Mr Yardley. He was not formally released from his summons the other day and he might now be formally released if that's convenient to the Commissioner.

MR WATSON: Perhaps just before we move to the next witness, at lunchtime I provided Counsel Assisting with a document which Mr Yardley managed to obtain following the questioning in relation to whether an inquiry had been made of the tender for respective areas, that might be a convenient time perhaps to be tendered.

30

MS WILLIAMS: Yes, there are a number of miscellaneous documents including the one Mr Watson referred to that I will tender at the end of the day, Commissioner. I have indicated - - -

ASSISTANT COMMISSIONER: Yes. Is that suitable to you Mr Watson?

MR WATSON: Thank you.

40

ASSISTANT COMMISSIONER: That will be tendered at the end of the day. And I will formally excuse Mr Yardley from further attendance.

MR STEIRN: Can we also ask Mr Anley and Mr Magi to be formally excused. Does anyone else (not transcribable)

ASSISTANT COMMISSIONER: They have both been formally excused.

MR STEIRN: They have?

ASSISTANT COMMISSIONER: They have, yes.

MR STEIRN: Thank you.

ASSISTANT COMMISSIONER: They're free to go.

MS WILLIAMS: And Commissioner, I call Scott Williams.

10

ASSISTANT COMMISSIONER: Yes, take a seat there Mr Williams. Mr Williams, you've been called here to give evidence. You are required to answer all of the questions asked of you and you're entitled to seek a declaration. Mr McIlwaine, does he - - -

MR McILWAINE: Yes, my client seeks a declaration.

20

ASSISTANT COMMISSIONER: Yes. The effect of this declaration is nothing you say here can be used against you at any future criminal, civil or disciplinary proceedings except if it's found that you've breached the Act by providing false or misleading information or in some other way. Do you understand that?

MR WILLIAMS: I do.

30

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

40

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

ASSISTANT COMMISSIONER: Mr Williams, you're required to take an oath on the Bible or make an affirmation to tell the truth. Do you have a preference?

MR WILLIAMS: I'll take an oath, thank you.

ASSISTANT COMMISSIONER: Yes, could the witness be sworn, please.

ASSISTANT COMMISSIONER: Yes, Ms Williams.

MS WILLIAMS: Mr Williams, could you state your full name and address for the record, please?---It's Scott Malcolm Williams, XXXXX.

10 And you've made a statement in this matter to the Commission. Is that correct?---I did.

All right. Commissioner, Mr Williams' statement is at pages 330 to 338 of volume CP1 and I ask that that be incorporated in Exhibit CP1.

ASSISTANT COMMISSIONER: Yes, that will be made part of Exhibit CP1.

20 **#EXHIBIT CP1 - PAGES 330-338 - STATEMENT OF MR WILLIAMS TO BE INCLUDED IN EXHIBIT CP1**

MS WILLIAMS: Commissioner, I noticed Mr Steirn excusing himself, I should indicate that Mr McCallum may be recalled later this afternoon and there may be some questions that affect his clients interests. It's a matter for him.

ASSISTANT COMMISSIONER: Yes.

30 MR STEIRN: In respect of what?

MS WILLIAMS: Mr McCallum may be recalled this afternoon and some questions may be asked of Mr McCallum that may affect the issue of Prosys.

MR STEIRN: I understand. Thank you.

ASSISTANT COMMISSIONER: Thank you. Yes, Ms Williams.

40 MS WILLIAMS: Mr Williams you've been the Deputy Chancellor of the University since October 2008. Is that correct?---Correct.

And you've been a member of the University Council since 1997?---That's right.

You've been the Chair of the tender committee since October 1988? ---That's right.

And a member of the University's Audit and Risk Committee also since October 1998. Is that correct?---As far as I recall, yes.

Thank you. Could Mr Williams be shown the document that is at folder CP2 page 314. I'm sorry, I think I have the wrong reference. Mr Williams you refer in your statement to having been shown a University response to an XXXXX in – that was completed in 2007. Do you recall being shown that document when you prepared your - - -?---I was shown it very briefly and I've given sufficient time to read more than one or two sentences of the document.

Have you had a chance to read the document in the meantime?---I have glanced through it, yes.

MR McILWAINE: Sorry Commissioner. My client doesn't have any problems with contact, content of that document your Honour. If the Commissioner turns to page 316 of the document, there's a statement that document will not be used for the purpose of any ICAC publication including any ICAC investigation report. I only raise it because, presumably that promise is made to illicit this co-operation from organisations and may not be appropriate in those circumstances to refer to them in court.

ASSISTANT COMMISSIONER: Yes, it may not be capable of being referred to in the report but I don't think that means that he can't be asked about it. Are you objecting to that?

MR McILWAINE: I'm not objecting Commissioner, I just wanted to bring it to Commissioner's attention.

ASSISTANT COMMISSIONER: Yes, I still haven't turned up the document so.

MS WILLIAMS: I'm sorry Commissioner, it was my fault. It's at volume CP3 at page 314. Mr Williams, is it your understanding based on the memorandum at page 314 that the document was completed by XXXXXX XXXXXXXX July 2007?---That's what I would surmise from that typed page.

And is it the kind of document that you consider should have been brought to your attention in your capacity as a member of the Auditor and Risk Committee and as chair of the tender committee in July 2007?---I think that's in a sense two questions if it was particularly relevant to the tender committee, yes, it should be brought to the attention of the tender committee. The audit risk committee is a much broader responsibility for risk compliance or risk management so it would be more likely to go to that committee unless it was specific to the tender committee. As to whether or

not it would come to the committee I think would be in the minds of management as to whether it was a document that had significant risk attached to it or indicated significant risks, so I wasn't, I'm not party to what was in the mind of the then director of Audit and Risk when he responded to this.

If you could turn to page 325 please, using the pages in the top right hand corner.---Thank you.

10 Do you see there that

---I do.

20 Do you recall whether the Audit and Risk Committee was considering purchasing or tendering for goods or services by the University as major risks area in about July 2007?---I have no specific recollection of that.

You see, procurement or tendering for goods and services by the University a matter that has been under consideration by the Audit and Risk Committee at any time since July 2007 as an area of risk requiring attention?---The Committee attempts to monitor all of its risks on an on-going basis so without doubt at some point, at several points I would imagine it would have been raised and if there had been a particularly high risk identified by members of staff at the time no doubt the Committee would have paid attention to it. I don't have any specific recollection of procurement related issues at that time.

Perhaps in light of that answer you might explain to the Commissioner, how the Committee works. Does it respond to issues raised by University staff or does it identify issues and filter those down to staff to be handled.--- Certainly. It's a governance committee, so by and large it is, it's supported by the management. Management provides reports to it as it sees fit on issues that it sees fit. If the Committee feels that some area is not sufficiently well address or requires more work for argument sake it will task management to do that and management would normally respond to the next meeting for example, which is two monthly. It doesn't conduct its own investigations in any way being governance rather than an operating (not transcribable)

If you turn to page 78 of volume CP3 that you have there please.

ASSISTANT COMMISSIONER: Ms Williams, before you go on, I think in view of the undertaking that's given not to publish these responses in the organisational survey, I will make a suppression order in respect of XXXXX although has it not, it hasn't actually been tendered has it?

MS WILLIAMS: It hasn't been tendered at this stage although the substance of some of the responses will be evident from the transcript so it would perhaps be appropriate for the order to extend to that evidence.

- 10 ASSISTANT COMMISSIONER: Yes, I think I'll make a suppression on order in respect of any of the evidence given relating to specific responses made by the UNE to this organisational survey.

A SUPPRESSION ON ORDER IN RESPECT OF ANY OF THE EVIDENCE GIVEN RELATING TO SPECIFIC RESPONSES MADE BY THE UNE TO THIS ORGANISATIONAL SURVEY.

- 20 MS WILLIAMS: Yes, thank you Commissioner. The document itself will be tendered. In fact I intend to tender the whole of CP3 this afternoon but I will take care to draw your attention to the suppression order at that time.

ASSISTANT COMMISSIONER: Yes, it needs to be suppressed as well.

MS WILLIAMS: Do you have page 78 of the volume now Mr Williams?---
Report under review?

Yes.---Yes, I do.

- 30 Is that a document that you have been provided with before?---I beg your – I do - - -

40

10

And that difficulty has been a problem for the last two or three years. Is that correct?---I would say longer than that.

And what is being done to address that difficulty?---I think we've, well we've had a run of bad luck in the sense that two of the directors that we recruited left shortly thereafter. It's a six to nine month process as I understand it to recruit a new person by the time you advertise, select, they turn up. What we've tried to do in the meantime is infill with where we
20 didn't have an incumbent we would outsource some of the work from time to time and also if we had a specific issue that we thought was of concern or potential concern we would actually put a tender out, a contract out to address that specific issue. So for example travel claims I think comes to mind and I think credit card usage comes to mind where we had specific outside auditor assistance to evaluate.

But without a director of Risk and Audit in place consistently, it's difficult is it not for the University to address the application of risk management processes throughout the organisation as a whole. Correct?---Without
30 doubt.

What if anything has been done to your knowledge by the University since March 2010 to address this key finding about the application of risk management not having progressed?---Where we are presently is that we have outsourced - we have an external person on a regular basis to conduct the internal audits and the risk evaluation. That person I think has reported once from memory to the Audit and Risk Committee sometime late last year, perhaps October or November last year and he would be due to report again, if I recall correctly, sometime this month.
40

And the name of this person and the organisation?---I'm afraid I don't have that at my fingertips. He's not in our organisation, he's an external person.

---I'm just trying to - most of this I think -
the committee wouldn't have day to day knowledge of most of this because
it's a governance committee. That work would be carried out by the
relevant staff within the University under the guidance of the head of that
department so I don't feel that I could speak precisely on very many of
10 these. I know that at the governance level we've been very keen to try and
recruit and fill positions and/or use outsourcing to do it. I think we've
interpreted our responsibility or - that's the wrong phrase. The level at
which we can become engaged is limited to asking the - or requesting the
University to try and expedite getting staff, the actual process of getting the
staff and implementing these things is part of management rather than of
governance.

And do you know in your capacity as a member of a committee whether or
not the University management have been able to do anything to address the
20 issues
---I am aware that they have
sourced an outside person or persons to work on projects that are considered
to be of contemporary interest but in terms of detail I don't know.

Is it the case then that since March 2010 University management have not
reported back to the committee on the things that have done and - that they
have done and have not done?---No, no, no, that wouldn't be true at all.
Each Audit and Risk Committee meeting has material submitted by
whomever is in the role of risk manager for risk and audit at the time, either
internal or out, external, so there would have been regular reporting back to
30 the committee on progress. I think the committee's concern is that with low
resources progress is fairly slow but there is definitely clear reporting back
on what progress has been made.

But based on that reporting back you're not aware of any particular steps
that have been put in place by management to address these
---I mean, I'd have to refer back to what was
submitted to the committee from time to time, I don't have specific recall of
specific issues.

40 All right. Do you recall the University introducing a Fraud and Corruption
Prevention Policy towards the end of 2009?---In broad terms a lot of the
policies flow up to council and many of them would have gone through the
Audit and Risk Committee on, on their way so I don't have a specific
recollection of it but almost certainly I would have seen it at the time.

All right. Do you know whether University management has put any fraud
control plans in place throughout the University as part of its risk
management?---I don't have specific knowledge of that.

Can Mr Williams be shown volume CP5, pages - open at page 138?---138.

Mr Williams - - -?---I have - - -

- - - do you have at page 138 some minutes of the Audit and Risk Committee from a meeting on 29 July, 2010?---I do.

10 And do you see those minutes record you as having been in attendance at that meeting?---I do.

I want to direct your attention in particular to the items that appear on paragraph F.4.2 commencing at page 140 and - - -?---F4.2?

Yes?---Yes.

And to the bullet points - - -?---Yes.

20 - - - that are said to be items noted by the Director of Audit and Risk? ---Yes.

In your view is it the case - was it the case in July 2010 that there was a lack of policy and procedures in respect of audit and risk at the University?---I don't think there was a lack of policy. I think what there was a lack of was resources to properly monitor policy and properly monitor risk. I think there was every aspiration by the University and this committee to do those jobs but though everyone was frustrated by the lack of resources to do them as well as we would like.

30 Was there a lack of procedure as opposed to policies in respect of audit and risk in July 2010 in your view?---It would depend on how far down you would (not transcribable) procedure, I wouldn't be aware of procedures on a day to day basis. I don't, I wouldn't know as a member of governance what the stuff would be told, what procedures, what induction procedures there were or training procedures. We would rely upon that coming up from management to that effect so I would only have a very superficial or very general oversight of the way procedures were implemented.

40 All right. And the lack of resources that you've referred to several times would have impacted on management's ability to create and secondly to implement procedures, is that correct?---I'm sure they would have, yes.

And is it your understanding that that remains the case today?---We still don't have an incumbent in that position other than the outsource person so I would say that's probably a fair comment.

I'd just like to identify quite clearly what you see as being the lack of resources. In the first instance it's the inability to recruit a director of Risk

and Audit, is that right?---We've managed to recruit - well, it's difficult to recruit them (a) and it's been difficult to retain them (b) so that has without doubt been an ongoing problem for the University. I think it's, it's probably something faced by a lot of regional and rural universities to get highly skilled people into comparatively remote areas.

So the problem is not so much lack of funds for that position but the - - -?
---No.

10 - - - difficulty of recruiting someone to come and work in that area?
---Absolutely. The funds, insofar as I'm aware the funds have always been earmarked for the role and we have advertised the position each time it becomes vacant. It just takes a long time to fill a vacancy and then if you're unfortunate we lose the people who come for various reasons so I haven't sensed any lack of willingness on the part of the University to fill that position.

20 All right. And are there any other resources apart from a director of Risk and Audit that are lacking in your view that affect the risk and audit function?---I'm not aware of what the more junior staffing is in that office so I'm not really aware of whether there's sufficient more junior staff to fulfil the job. I don't believe I've heard any, any arguments or discussion to the effect that there isn't sufficient junior staff. What we seem to lack is a person skilled at a higher level to give direction and expertise.

30 Are you aware whether a framework for reporting and reviewing this risk management is in place at the University?---There's a system known as No Risk that's been around for a long time. As best I understand it's a system who - it was appropriate in its day but the technology and the methodology of risk management has moved on. There have been several attempts to restart the risk management monitoring process with newer systems and newer methodologies. I'm not sure where that's up to presently but I would expect that at the next meeting of the Audit and Risk Committee, for example, which I think is in February, we would get an update on that. I think the person who's presently outsourcing as I recall has only been in the position sufficiently long to make one report to a committee sometime in October/November last year.

40 If you could turn to page 1 of the volume that you have there?---Mmm.

Is that a form that you completed in about August 2010?---It's a form, yes, would be.

And I won't go through each response because it speaks for itself, but can I just ask you to take a moment and look at each response and indicate whether anything has changed materially in the period between August 2010 and now?---I think it expresses my concern about the lack of internal auditors and risk management people, I think that it has, and I can't

remember, I assume in August 2010 we didn't have an incumbent, I've lost track of the timeline, and I think that it would have been somewhat mitigated by the appointment of an outside person as at least temporary filler till we can find a suitable person for the standard position. But my concern of our risk management certainly continues, I'm less than satisfied with our ability to manage the University's risks or to monitor the University's risk.

10 And the key reason why you say that the committee is unable to adequately manage and monitor the University's risk is because of the lack of a Director of Risk and Audit. Is that right?---I think so. We lack a professional leadership in that area.

20 And the committee being only a governance committee is unable to get more deeply involved into the area to fill the gap. Is that correct?---Yeah, well, that is the discipline that we try to have at the University, to separate governance and operations, and I personally think that's the right division to have. Certainly from time to time when we've seen or been advised that there might be an issue of particular concern, say for example travel claims or use of credit cards, then we have certainly, we don't need to even authorise that because it's a function of management to, to do that, but we have been made aware of that, that there is a concern, A, and B, that management has made efforts to address the concern.

30 Just to take as an example the question that's marked 1A in this form as to whether or not the committee has taken active steps to monitor the control systems implemented by management for the approval of transactions and so forth, in the absence of a Director of Risk and Audit, is that something that the committee could require management to provide a report directly to eh committee on so as to take any necessary steps?---We, we have actually required from time to time management to provide reports say on the top 10 risks that they see for the University wide, which is our mandate if you like, and when we've requested those they have been provided insofar as people are able to estimate what the top 10 risks are for the university. So our concern I guess is that with the lack of, the oft times lack of professional leadership in that area one isn't too sure how accurate that assessment of the top 10 risks are.

40 And those reports identifying the top 10 risks, did they also identify what is being done to manage, monitor and control those risks?---That's, that's the normal practice. When we, we're usually presented with a matrix which identifies the risk and the significance of the risk and then the control measure that's applied to the risk and then the significance of the risk after the control measures have been applied. As I understand it that's a fairly normal method of representing risks and their management.

And upon considering these reports has the Audit and Risk Committee identified any changes that need to be made in the way that the University

monitors and manages its risks?---I don't think, it's a difficult question to answer. I'm not trying to avoid it, but many risks are if you like at a micro level which is well and truly below what we would have any, we would even see. The high level 10 risks tend to be things like reputation, which is obviously of concern such as a function like this, but also a difficult to measure and quantify, so I find it difficult to answer your question, I'm sorry.

10 I'll just ask you some questions about procurement in your capacity as a member of the University's tender committee. The Commission has heard evidence that the University has not procurement policy. Is that your understanding of the position?---I have no knowledge of that one way or another. I don't know whether we have one or not.

Do you know whether the University has a procurement manual?---No, I don't.

20 Do you know the extent to which the Central Procurement Group in the Finance Division is involved in tenders issued by various departments of the University?---I haven't specific knowledge but when the tender committee receives a report on a tender there are various parties contributing to that and amongst them are the Central Procurement Group from time to time, but I don't know what role they make, what they, role they play in the whole process.

Do you know what if any training University staff who participate in tender processes have?---No, I don't.

30 So the tender committee receives, as I understand it, a final report from the department which has let the tender, indicating their assessment of the tenders and their recommendation as to how to proceed. Is that correct? ---That's correct.

40 That report is generally signed off by the director or most senior officer of the relevant department. Correct?---Yeah, we, it's usually signed off by at least two parties, one is, we've required the Financial Officer to sign off that we have a budget and it's not going to have a financial impact A, and then B, the, the person with line responsibility for the particular tender would sign off as well.

And the tender committee in its deliberations is reliant on the job that's been done by the department who has let the tender and, and by the information presented in the report?---That's quite correct. Over the years when we've, when we've been unsatisfied with the professionalism if you like, we've made comment, I noticed Mr Quinlan yesterday observed two changes that the committee has required the University to make to the operations in order to try and improve the quality.

Could Mr Williams be shown a copy of CP4, please, at page 208. Mr Williams, the document that commences at page 208 runs to page 227 and I just want to ask you in the first instance whether you've seen that document before?---I don't recall seeing it, so, if it hadn't come to one of the committees that I'm on I wouldn't have seen it in the normal course of events.

10 Do you recall being aware that the University was obtaining a procurement review in about March 2010?---I, I had a general awareness that the procurement process was under review and part of that as I understood it was a requirement we – using a – outsourcing to a professional procurement organisation. I don't recall the timelines for that and I probably only have passing knowledge of the fact that there was a review that led to the appointment of an outside body.

20 Is this a, would it, would it be helpful to you in your role as a member of the tender committee and the Audit and Risk Committee if a review of this nature in relation to the University's procurement was provided to you? ---Without doubt my personal preference would be for, if you like, an executive summary of any consultant report to be provided to the relevant committee.

And so far as you're aware this particular report was not provided to you or either of the committees you're on?---So far as I'm aware it's not, it, it would need to be in the business papers which could be searchable but I, I don't have a specific recollection of it.

30 Do you recall any discussion since March 2010 about a restructure of the procurement operations involving recruiting a head of procurement to report to the director or the deputy director of Financial Services?---I certainly recall that there has been movement in that area including this outsourcing that I mentioned before. I don't know that I was aware of this specific staff relocations, that's normally, well it's always the prerogative of management to do that and governance would not normally be consulted on that other than as a courtesy.

The outsourcing that you've referred to is that to a company by the name of Portland Group?---Yes, it is.

40 And they're engagement is the only restructure to procurement processes of which you are aware in the period since March 2010?---I believe so, yes.

Thank you. Commissioner, I have no further questions for Mr Williams.

ASSISTANT COMMISSIONER: Thank you. Yes, does anybody wish to question Mr Williams in relation to any matter.

MR BOURKE: Yes, I have a few short notices.

ASSISTANT COMMISSIONER: Yes, Mr Bourke.

MR BOURKE: Mr Williams, in the course of your work at the University you would on occasions receive invitations to attend events, corporate events, things of that kind?---Very, very, very rarely corporate events, in fact I can't recall a corporate event at all. It's often, it's fairly common to have, if you like, University social events at colleges, it's fairly common to have politicians and dignitaries visiting but I can't recall, State Government, I can't recall any corporate functions at all.

10

But you in that answer are saying that you have been invited to events put on by persons or organisations outside of the University?---I can't recall any corporate events at all being invited to any – I have been invited to functions within the University for visiting dignitaries. The only functions I would be invited to external to the University that I can recall are from the local town council for example.

And you've attended events such as the ones just mentioned?---The town council ones?

20

Yes.---Yes.

And - - -?---I might add, that's usually a Christmas dinner, Christmas drinks or something.

Right. And in attending that function you did not in doing so feel that you were imposed upon to show favour to anybody did you?---We don't - - -

MR McILWAIN: Commissioner, I don't see how this assists the
30 Commissioner. There's be no concession by this witness that he's attending functions involving suppliers or contractors to the University, that's really my submission that these type of functions are irrelevant.

ASSISTANT COMMISSIONER: Yes, Mr Bourke it's really marginally relevant is it?

MR BOURKE: That's not the point I'm going to and if I could be able to just to continue the - - -

40 ASSISTANT COMMISSIONER: Yes.

MR BOURKE: In attending a function like that, you didn't feel that you were being proposed upon to show favour to anybody did you?---Since we weren't had no commercial relationship with the Council in terms of tenders or business activities, no. I consider them to be, if you like, political activities.

And you mentioned for instance that on occasions members of parliament had attended the University and functions. You're nodding your head.---
I'm sorry, yes.

And at functions like that it wouldn't be uncommon for them to be provided with food and drink?---Most definitely.

10 And in providing, in the University providing services such as that, it's not doing so in the attempt to receive any favours from anybody, is it?---No, I think that's considered to be normal hospitality for a visiting dignitary.

And would you accept that hospitality of that kind is a common place part of business?---I - - -

20 ASSISTANT COMMISSIONER: Mr Bourke, I'm sorry but the witness had made it clear he's taken no part in hospitality of a commercial or business nature, he's talking about political functions which are entirely functions where there is no question of contractors being favoured. So I don't see the relevance of that question.

MR BOURKE: Well, with respect Commissioner, I'm seeking to explore this area because it may well be part of submissions that will be made subsequently about the question where is it that the line is to be drawn in matters of this kind.

30 ASSISTANT COMMISSIONER: Well, you're welcome to make whatever submissions you like but I don't see how this witnesses opinion about functions he is attending which are entirely different in nature from the functions we're dealing with will be useful in any way.

MR BOURKE: I'll ask a different question.

Would you accept sir that social gatherings can be a good environment in which to discuss matters of work?---I think that's true of all sectors, yes.

40 And in the context of working with external contractors it's important, you'd accept wouldn't you, for there to be a good relationship between the relevant officer at the University and the external contractor?---I think that's a judgment call on the part of the individuals involved, it's not something that the University doesn't have a policy on that for argument sake. My role would be limited to a governance observation it's, it's an ethics question if you like or - - -

And being an ethics question, question of that kind, what would involve matters of judgment that really depends upon the individual facts. Would you agree?---The individuals, I'm sorry.

The individual facts and the circumstances involved?---Yes.

And it's not always easy to work out where the line should be drawn. Would you agree with that?---I imagine that would happen from time to time, yes.

Does the University have a number of sponsors?---For?

For example prizes and scholarships?---Yes, it does.

10 And to your knowledge amongst those sponsors there are a number of private companies?---There certainly are.

For example Westpac?---I don't know about Westpac specifically but there are defiantly commercial sponsors, yes.

KPMG?---Could be, I'm not sure.

20 And companies of that kind provide money to the University for payment out of prizes to students for instance, don't they?---Quite correct.

And in accepting that money the University – I'll withdraw that. On your understanding of the University's position, it doesn't accept that money on the basis that it expects to do some favour to that organisation. Does it? ---I think not, I mean the prizes might be \$1,000 which is sort of 15 to 20 minutes work of a consultant so I don't think they're looking for a high benefit cost ratio.

30 But you'd accept wouldn't you that the sponsors to a degree are receiving some form of advertising by doing that?---Yes, they would have a reputational, something would go to their reputation, yes.

And the University is also acquiring a benefit from it as well?---Only in transit, in the case of the scholarships it would be the students that would acquire the benefit.

Bu the University still gets some benefit form that, does it not?---Not financial that I'm aware of, it gets a reputational benefit perhaps.

40 Benefit to its reputation as you said.---Yes.

Certainly saves the University of perhaps putting money up for prizes. ---True.

Just finally, you on occasion would enjoy lunch with staff members and other person from the University?---Not on a one-to-one basis other than perhaps the Vice-Chancellor or very senior members of staff. We would have lunch as a counsel, a whole of counsel or a whole (not transcribable) committee if we have a sandwich lunch during a committee thing the staff,

there would be the staff who attend the committee present but it, I personally, I think it would be very uncommon for a member of the University Governance to have a one-on-one dinner with a member of staff other than perhaps the Vice-Chancellor.

But you yourself sometimes offered to pay for somebody else at lunch or dinner?---At a University function?

10 Well, with anybody with whom you've been working?---In my private capacity as a business person I would have paid for lunch from time to time, yes.

And you didn't see it inappropriate in doing so or offering to do so did you? ---I'm sure I wouldn't have or I wouldn't have done it.

Yes, thank you Commissioner.

20 ASSISTANT COMMISSIONER: Thank you. Yes, if there's nothing else Mr Williams, thank you for coming you're now excused.

THE WITNESS EXCUSED

[3.39PM]

MS WILLIAMS: Commissioner, I call Mr Peter Enlund.

30 ASSISTANT COMMISSIONER: Yes, Mr Enlund, please take a seat. You've been called to give evidence. You are required to answer all of the questions asked of you. You may seek a declaration under section 38. Mr Lewis.

MR LEWIS: We're seeking the declaration and (not transcribable)

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

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND

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

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

MR ENLUND: Take an oath, please.

10

ASSISTANT COMMISSIONER: Thank you. Could the witness be sworn please.

<PETER JOHN ENLUND, sworn

[3.41pm]

ASSISTANT COMMISSIONER: Yes, Ms Williams.

MS WILLIAMS: Mr Enlund, could you state your full name and address for the record, please?---Yes, it's Peter John Enlund XXXXX

10 Thank you. Now, you're the Chief Operating Officer of the University of New England?---I am.

And you've held that position since about June 2010, is that right?
---21 June, 2010.

Thank you. And you've made a statement to the Commission in connection with this matter on - - -?---I have.

20 - - - 14 November last year. Commissioner, Mr Enlund's statement is at pages 339 to 342 of volume CP1 and I ask that that be included in Exhibit CP1.

ASSISTANT COMMISSIONER: Yes. That will be included in Exhibit CP1.

#EXHIBIT CP1 - PAGES 339-342 - STATEMENT OF MR ENLUND TO BE INCLUDED IN EXHIBIT CP1

30 MS WILLIAMS: Thank you, Commissioner.

Mr Enlund, I want to ask you some questions in the first instance about procurement at the University?---Yes.

The Commission has heard evidence that there is no procurement policy. Is that correct?---There is no current procurement policy, yes, that's correct.

40 And there's been no current procurement policy since you first took up the role in - - -?---I'm not aware of one, no, certainly in my time it hasn't been instigated, no.

Are you aware that in fact there's been no procurement policy for some period of time before your arrival?---I've been told that, yes.

There's also no procurement manual or process documentation, is that correct?---I understand that to be the case, yes.

And individual departments within the University, such as FMS, operate their own tenders, is that correct?---There are, there are two kinds of tenders. There's those for capital purchases which are the building projects and so forth. They're largely originated by FMS and run by FMS. We do have other services and goods that are tendered from time to time. They may be done for FMS or they may also be done for the Information and Technology Directorate or residential colleges for catering and so forth so in essence there are two streams but FMS predominantly are the major one.

10 Okay. So FMS do their own construction type tenders, correct?---They do.

And in relation to major services such as cleaning and security services? ---They've been the instigator of those, yes.

And the Commission has heard evidence that FMS staff have no formal training in procurement, is that your understanding?---As I've heard from this, yes.

20 And their experience is that which they have learned on the job?---As I've heard in this inquiry, yes, I have.

Was that something you were not aware of prior to this inquiry?---I didn't realise there hadn't been any formal training (not transcribable)

30 The Commission has also heard evidence that the involvement of the Central Procurement Group in FMS tenders is limited to a staff member from Finance sitting on an FMS Tender Evaluation Committee as an observer only?---I believe that's changing. Certainly in my time and since I've been there I've been taking a more active interest in, in, in aspects of the control procedures around the University and procurement is one of the most problematic so I've been directing attention to that. The, the, the term Central Procurement Group may in some ways imply a great deal of infrastructure and experience. The group is very small. The most senior person in that group is a mid-level staff member in the University who has sort of grown into that role. There isn't an experienced executive procurement professional running that group, that's been one of the issues. The rest of the staff in that group are by and large clerical people who were administering the mechanics of tender processes and quote obtaining and so forth so there isn't a, a vast amount of knowledge within the University that
40 we've been able to call upon in the past and we're, we're changing that now.

Does it, does it follow then that the Central Procurement Group does not presently have the skills, knowledge or experience to provide a greater level of assistance to FMS in relation to FMS tenders?---It, it certainly needs to be enhanced and mention's been made of Portland Procurement Services. When I arrived I was actually quite taken aback by the lack of resources and skill in the procurement area. We in fact tried to recruit a procurement

manager I think as a result of that review that you proffered a moment ago. We had no, no applications. I think that was a combination of the job being pitched at too low a level so as to be unattractive to people but within the local area there's not a lot of skill. So I've, I've looked to find on a contracting basis skills that we can use at the University to help us with our processes. Portland provide that to us.

All right. And the engagement of Portland Group, that was your decision, was it?---Yes.

10

Was there a tender process for the contract that Portland have entered into with the University?---It was a direct negotiation. I was unable to find any other firm who provided that, that kind of service in the market. I had experience with Portland in my previous job at RMIT where they'd done some very impressive consulting work for us.

20

And can you just describe in a little more detail for the Commissioner exactly what it is that Portland Group is doing in relation to the University's procurement processes?---Yes, I can. The functions of procurement are broken up into two stages. There's the administration and the tenders and so forth but also there's the identification of areas where savings can be made, where contracts can be renegotiated or services improved and so forth and options for sourcing those particular services. One of the skills that Portland bring and they, they have I think several hundred staff nationally, they're aware of alternative suppliers for goods and services, they have a very active portfolio of clients including people like RailCorp so they know prices and contract terms and conditions that are in the market so they're bringing that market intelligence to us in terms of potential suppliers. They're also bringing with the rigour of analysis in which we should be paying for contracts, what the terms and conditions should be and they're assisting us in drafting the specifications to enable high quality tenders to be received so they are in effect almost our procurement manager.

30

40

And do you consider, given the difficulties that have been experienced by the University in recruiting a procurement manager following the 2010 review, that Portland's involvement as the procurement manager providing the services you've just described is likely to be a long-term solution to the University's resource problem in the procurement area?---In terms of long term solution I believe we signed a contract for three years, they're one year into the contract now.

ASSISTANT COMMISSIONER: May I ask how much they're charging?
---Am I able to say that's commercial in confidence what they charge us in terms of fee or - I'm happy to, I'm happy to.

I'm happy to suppress it but I would like to know what it is?---The fee is XXXXX per annum.

All right. Well, I suppress the actual amount.

I SUPPRESS THE ACTUAL AMOUNT

THE WITNESS: Thank you. In relation to the contract their performance, they warrant their performance and that they will deliver savings to the University of a minimum of three times that per annum.

10

ASSISTANT COMMISSIONER: Yes. I guess the point is a very good procurement director or manager could deliver savings as well and it would probably cost a lot less than that. I understand what you say about your difficulties in attracting somebody but it seems to me that the, the University has some very large contracts, even just the ones we've heard about, sometimes over a million dollars a year for cleaning - - -?---Yes.

20

- - - and I, I do find it amazing that you do not have a formal procurement policy and procedure. Can you tell me why in your view that has not been done and has still not been done?---I'm thinking historically that it's the expertise of staff there who actually know what those, those manuals and procedures should be but if you - because the experience I'm used to with procurement staff is that it's an executive level position that the head of procurement is an executive level position and they, they are generally degree qualified and maybe members of CIPSA and so forth and they know the processes or procedures that should be there but a lot of the staff at UNE grow into jobs, they've been there a long while and cycle through them so they don't have the benefit of that professional training. It's, it's an unfortunate legacy.

30

Is that one things that the Portland Group is doing?---Absolutely.

Are they drafting a procurement policy?---I've not asked them to draft a procurement policy, but with each of the tenders they've been working with each of the line managers in specifying the services that would be required, so they're procuring in IT, in catering, waste management and so forth. They work with the staff in those areas to help them understand the processes to go through to prepare that. So there's a, there's a transfer of knowledge to our staff from that as well.

40

Yes. Thank you. Yes, Ms Williams.

MS WILLIAMS: Doesn't the University need a policy though and a manual underneath that as a matter of urgency - - -?---Yes, it does.

- - - if and when Portland Group ceases providing services or staff at UNE change the knowledge goes doesn't it?---It would. It must, it must be done, I agree.

Are you able to indicate when it will be done or is that a decision that's up to others to make?---No, it would be my decision, so it's obviously becoming a matter of highly critical importance and needs to be addressed urgently.

10 Because the lack of a policy leads to the fragmentation of the procurement processes doesn't it in that everybody involved in a tender or other procurement process is doing the best they can to do what they think should be done?---Yep, that can be the case, yes.

But there is no shared organisational understanding of what it is that should be done or how. Correct?---That appears to be the case, yes.

20 Other than continuing the arrangement that has been entered into with Portland Group can you think of anything that can be done to improve procurement at the University given the resource constraints that you've referred to?---I do, I don't think, sorry, the University has been in a state of unprofitable operations for quite some time and it's very important that staff are made to realise the benefits of being able to keep our costs at a minimum when we can. In terms of, in terms of new processes and so forth, I can't think of anything that has been introduced other than Portland's work and knowledge around the University.

30 But my question was really can you think of anything else that can be done?---Oh there's obviously much more that can be done, so the urgency to have policy and handbook and training the staff about not only the ethical aspects of procurement but about the physical aspects about how one approaches analysing who may be able to supply you goods and services and on the basis they may supply them. We work in a highly devolved and delegated area, so that net would need to be spread very wide so that all staff have the benefit of receiving that training.

40 The University staff who have appeared to give evidence before this inquiry have indicated in relation to the ethical aspects you refer to that they received no formal training or induction in relation to the University's Code of Conduct, with the exception of some training that has been arranged in FMS as recently as July last year. What is your understanding of how the Code of Conduct and Gifts and Benefits Policy are communicated to and enforced with University staff?---I'm not aware of any other training programmes other than what Brian mentioned yesterday. When I joined the University my offer letter it referred to the Code of Conduct and Conflict of Interest Policy and so forth so as new staff join it's pointed out at that point in time. But I'm not aware of any specific training that's given.

All right. The letter refers to those, the Code and those policies by name does it?---It, it doesn't refer specifically to the policy, it says you will comply, conduct yourself in accordance with, it says in accordance with the

Code of Conduct and (not transcribable) and have no conflict of interest or something in doing a job. I don't think it specifically refers to the policy as it's published.

Does the letter enclose a copy of the Code of Conduct and the policies?---I can't recall if it did. I certainly read it but I don't recall whether it was in this copy or not.

10 The evidence given by other witnesses who are University staff indicates that it's up to staff members to look it up on the intranet as and when they feel necessary. Do you have any reason to disagree with that?---I don't.

20 Having regard to the University's financial predicament and limited resources that you can refer to, that you have referred to I'm sorry, is there anything else that you can identify that could be done to improve the way in which the staff are educated about the Code of Conduct, the Gifts and Benefits Policy and the Conflicts of Interest Policy?--- Certainly in terms of more broad ranging and widely available training, yes. I don't think it's inappropriate at all to have staff perhaps provide a statement or a certification that they've read it each year or have refreshed their memory of it each year. It's much easier, it's reasonably easy with technology now to have self-paced quizzes and examinations and I've seen those used in other places where it may be talking about equal opportunity and so forth, and through reading the paper, answering the questions, it grades the staff members knowledge. And that's a positive reinforcement.

I want to ask you some questions now about the Audit and Risk function at the University?---Yes.

30 Is it the case that only a small number of audits that were planned for 2011 were in fact completed?---Yes.

And that's because the University has no internal auditor. Is that correct? ---There was an internal auditor who joined the University the day I did, we started the same day. He finished I think in September of last year. He has assisting him a lady who has a chartered accounting qualification. I don't believe she's full time, but they didn't get through the scope of work that they had planned to get through.

40 Was the scope of work for 2011 larger than usual?---There hadn't been an audit planned I don't believe in previous years. It may have been somewhat ambitious in terms of what they were attempting to do, but it wasn't I don't think unreasonable.

If the number of planned audits, which I understand 15 audits were planned. Does that accord with your understanding?---I don't recall the number. I would have thought 10, but - - -

If the number of planned audits was not unreasonable what is the explanation so far as you're aware for them having completed only a small number of the, of the audits?---I have no specific knowledge as to why they were unable to do them. It's certainly not willingness or acceptingness of the staff to have the audits performed because they happen as a matter of course, so I think part of it does come down to resources.

10 Is it the case then that the University has no internal auditor since September last year or has - - -?---There's no permanent appointment to that position. There's a gentleman I think came from the New South Wales public service who's been on a contract basis I think since September or October and he's still at the University.

So currently internal audits are being performed and at the moment it's by an engaged contractor?---There was one, there was Deloittes, I believe did one in relation to procurement in December.

20 Could Mr Enlund be shown volume CP5, please at page 140. Sorry, if you turn back to page 138 Mr Enlund, you'll see that the document is a minute of the meeting on this committee?---Ah hmm.

And it shows you as having attended that meeting in respect of certain items?---Yes.

Do you see that on page 138?---Yes.

And those items include F.4.2 which appears at page 140 to which I'm directing your attention?---Yes.

30 Just in relation to the first bullet point on page 140, do you agree that as things presently stand there is a lack of policy and procedures in respect of Audit and Risk at UNE?---Yes.

40 And what if anything is being done to address that problem?---Okay. Policies are being, being updated. I'm not suggesting there's a hugely concerted effort. They're being done as, as capacity arises. Several of them have been brought up to date, certainly I think over the last 12 months. There's policies across financial areas but also in other areas of the University in relation to Human Resources and so on and so forth.

Now is it fair to say that implementing a policy is a first step, you need a set of procedures in place to actually give effect to that policy. Is that right? ---Generally, yes.

And you've explained what's been done in relation to policies, what if anything has been done since July 2010 in relation to procedures for Audit and Risk?---For those, sorry, for internal controls within the University (not transcribable)

Yes?--- When that policy is renewed the procedures are refreshed as well, so that if it was credit cards for example, the procedures and so forth that go with them are refreshed.

All right. We'll take as an example the Fraud and Corruption Prevention Policy. Are you familiar with that particular policy?---Yes, I am.

10 It provides, does it not, for fraud control plans to be implemented?---It does.

Have those plans been implemented within the University at the appropriate management level?---I have not seen that plan, no.

Does that mean that it's likely that it has not been implemented?---Yes.

And are you able to explain why no fraud control plan has been implemented since the Fraud and Control Policy was introduced at the end of 2009?---No, I can't.

20 Now, I'll just take you down please to the fifth bullet point on page 140 which refers to the development of a framework for reporting and reviewing risk management- - ?---Mmm.

- - -as something that needs to be addressed?---Ah hmm. Yes.

30 To your knowledge has that been addressed since July 2010?---I can remember that particular subject and a document on that subject coming to at least on Audit and Risk Committee meeting where the major risks of the University were tabulated and their impact as to whether they were high, moderate or low risk in impact. I can remember those being discussed at that meeting and most of those, I think most of those high-level risks, there would have been responses given by management as to what was being undertaken in particular areas to mitigate them.

And if you can look please at the second-last bullet point on page 140? ---Ah hmm.

40 To your knowledge has, has work been done since July 2010 to define key business processes and identify controls for the effective implementation of risk management in The UNE?---I, I, I, I believe so, and I'll, I'll give the areas in relation to, to financial management and financial reporting. There's been a considerable amount of work been done in the last, since my arrival in terms of getting a financial reporting system, getting the reports timely and accurate, properly reconciled and the procedures to draw up periodic forecasts and budgets to improve those. The level of suitability of those management reports and the, the internal control processes that go beneath those were sadly in need of, of updating. We've been applying, we have several new staff members in that area where we've been improving

the budget processes and improving the management reporting processes because without the data it's very difficult to manage risk, it's very easy to be able to, to eliminate many of the control weaknesses and regular reconciliations and so forth are important in that. In addition the Auditor General has commented for a number of years that staff annual leave taking at the University was not, staff were accumulating leave, not clearing their leave balances. It's a pretty easy and fundamental control that staff are routinely required to take annual leave, because when that happens things come to light. So some of those sorts of controls and so forth have been put in place.

All right. Are you able to identify any FMS business processes in respect of which controls have been identified and put in place so as to effectively manage risk in relation to those processes?---Very specifically in that financial reporting area, we have recruited a very experienced Deputy Director of Financial Performance and Budget. He's working very closely with FMS in terms of improving their cost recording systems and their ability to monitor and explain variances. It's, it's a fundamental part of management that variances from budget are understood and explained because they can indicate in some instances issues of fraud, but they can also provide to the line managers remedial actions that are required in, in managing a particular part of the business. So there has been an increased focus on that. Also in the recording of costs in relation to capital expenditure recording and so forth, those processes.

I just want to ask you now about Mr McCallum's position?---Yes.

He was suspended or stood down from the University on full pay in about March last year. Is that correct?---Yes.

And that coincided with the commencement of the Commission's investigation?---It was shortly after. I think it was about a week or so after.

And does Mr McCallum remain suspended or on leave on full- - -?---He does.

On full pay?---Yes, he is.

Can I have volume 10, please. Could Mr Enlund be shown pages 167 to 168 of Exhibit 10, please, volume 10. I think you can see the document on the screen (not transcribable)---My eyes are, I didn't have my glasses I'm afraid so a paper copy is much easier, thank you.

Now, I just want to ask you first of all, you received this memorandum, did you, in about November last year?---I did, yes.

And has any action been taken in relation to the, the conclusions or the recommendations made at page 168?---Okay. This, this memo took place a

10 week before I went on leave. I'm just struggling to recall exactly what may have happened in the period. I went on leave on 17 November and didn't come back until 3 January. This report, I had a conversation with Kim Cull, who is our Chief Governance and Planning Officer. This document was prepared setting out the facts in relation to certain matters at Sport UNE that the Commission was investigating. I was of the view that this was being processed whilst I was away, but he still remains a member the University staff because before anything could be done the Commission hearing was, was called and under our enterprise agreement I didn't want to do anything that would jeopardise processes under the EB whilst the Commission hearing was on.

And so the position is that Mr McCallum remains on full pay. Is that correct?---He does indeed, yes.

Commissioner, I have no further questions for Mr Enlund.

20 ASSISTANT COMMISSIONER: Thank you. Does anyone wish to question Mr Enlund? Thank you, Mr Enlund, you are excused.

THE WITNESS EXCUSED

[4.07pm]

MS WILLIAMS: Commissioner, I recall Mr McCallum. I'm assuming you are still wanting to continue- - -

30 ASSISTANT COMMISSIONER: Yes, we'll go on. Thank you. Mr McCallum you're still under oath?---Yes, Commissioner.

Thank you. And the declaration continues to apply to your evidence?
---Thank you.

MS WILLIAMS: Mr McCallum, when a, I withdraw that. When the University made a decision to award a contract to a particular tenderer there would be a letter sent by FMS to the tenderer informing them of the outcome. Correct?---That's correct.

10 And I think you've seen some letters of that kind in the course of this inquiry?---That's correct.

Was there a document setting out the terms of the contract in full that the contractor and the University signed?---No, there was the, the letter that you had up on the screen yesterday was a letter designed by a local firm of solicitors, Watson, McNamara and Watt, to, in the absence of a form of tender that they believed was just as binding. So that was the document, had the listings, our agreement is evidenced by A, B C and D, et cetera.

20 Right. So the contract documentation comprises in effect the letter of the kind you were just referring to- -?---Yes.

- - -together with the documents referred to in the letter. Correct?---That's correct.

30 And those documents, and I'm talking generally here, not in relation to a specific instance, those documents would be the request for tender, the tender response and any correspondence between the University and the tenderer by way of clarification during the process. Is that correct?---That's correct.

And those, that is the extent of the records that you would expect the University would have in relation to any particular contract. Is that right? ---That's correct.

Thank you. Could Mr McCallum be shown Volume CP3 at page 191 please. Mr McCallum is that an email that you sent to variance contractors on 29 January 2009?

40 ASSISTANT COMMISSIONER: I don't think we're on the right page.

MS WILLIAMS: I'm so sorry.

ASSISTANT COMMISSIONER: We're on 193.

MS WILLIAMS: 191.---Yes.

And the recipients of the email included Mr Magi of Prosys, correct? ---That's correct.

Ms Cutler of Quad Services?---Yes.

And Mr McLean of SNP?---Yes.

And I want to ask you in particular about your statement at the end of the first paragraph, second paragraph of that email that you will still address major contract issues during this initial period?---Yes.

10 What is the initial period that you were referring to there?---Um, I believe it was for the, my recollection is would be during the three months or when Brian Munroe believed that Chris Ipkendanz had the necessary transfer of knowledge.

But the transfer of knowledge was something that needed to happen between you and Mr Ipkendanz, correct?---Oh yes.

And it was expected, wasn't it, that Mr Ipkendanz would be dealing with contractors?---Yes.

20

And would be dealing with any issues arising under the contract?---Yes.

Why was it then that you were indicating to the contractors themselves that you would be responsible for addressing any major contract issues?---Oh as an assistance to Chris.

Was that an assistance that anybody else asked you to provide?---Um, I can't recall.

30 It was your understanding wasn't it that your role as Director of Risk Management and Internal Audit was completely separate to what you had been doing at, as Campus Services Manager?---Yes.

And that you in fact needed to maintain some kind of distances from FMS and from the Campus Services role whilst you were acting as Director of Risk Management and Internal Audit?---Yes.

That was important wasn't it, to maintain your objectivity and carry out the functions in the new role.---Yes.

40

And it would be inappropriate wouldn't it, for you to be dealing with contractors in relation to their issues arising under contracts that they'd entered into with the University?---Um, I believe my intent was to assist Chris bearing in mind that I, I got very little notice in the move to my secondment.

And were there any major contract issues that you found yourself dealing with during the first three months that you were acting as Director of Risk Management and Internal Audit?---Not that I recall.

Could you turn back please to page 185 of Volume CP3 which you have in front of you. Do you recognise that email as one sent by you to Mr Anley and Mr Magi at Prosys in relation to a maintenance agreement?---Sorry, I've got the wrong page.

10 That's all right. 185.---Yes.

Having looked at that email, do you recall that in January 2009 just before moving across to the position of Director of Risk and Audit, you had been working with Mr Anley and Mr Magi on a maintenance agreement?---Yes.

And that maintenance agreement had not been completed at the time that you moved across to the new role. Is that correct?---Um, yes.

20 And was that something you discussed with Mr Ipkendanz in handing over your responsibilities to him before you moved into the new role?---I would have thought so, I have no specific recollection but I would have thought so.

And if you could turn to page 187 please, you see there that on the 10 February Mr Magi sent you an email in relation to those maintenance agreements.---Yes.

And those maintenance agreements had not at that stage been concluded. Is that correct?---Yes.

30 And I want to suggest to you that Mr Magi's email to you that's at page 187 was in response to the second email that appears at page 188. If you could take a moment to look at that please.---Yes.

Now on the 6 February, you had taken up the role of Director of Risk and Audit, correct?---Yes, I don't remember the specific date but - - -

And in the email, in your email to Mr Magi of 6 February at 8.21am - - -?
---Yes.

40 You were indicating to him, weren't you, that he needed to send you some proposals quickly for the maintenance agreement?---Yes, I accept that now, yes.

And the reason for that was because there were other people in your job, correct?---Yes.

And you wanted to be the one to resolve it rather than let those other people resolve it, correct?---Or be part of it, yes.

And why was that?---I suppose because I'd invested so much time in it but also I think there was, I don't know how many other proposals, I don't think that was the only proposal but certainly just to see, I suppose, I found it difficult to let go.

10 Why was it of importance to you that you be the one to decide whether the University entered into a maintenance agreement with Prosys and on what terms?---I don't think I would have been the one to decide that even if I had progressed it with Chris Ipkendanz in place and Brian Munro, they wouldn't have allowed me to make that decision.

If you look at your email at the top of page 188 please to Mr Anley on the 10 February 2009.---Yes.

You refer there to the risk that if we do not resolve ASAP those in place will simply make their own arrangements.---Yes.

20 Their own arrangements being making their own decisions and proposals about the maintenance agreement to be entered into?

MS HUGHES: I object Commissioner, their own arrangements they could just ask for their own tenders, they could as for proposals from different people I mean. The evidence that Mr McCallum has given is that he was heavily invested in this process and he's already given evidence that he wouldn't be the one making the decision, I don't think you can necessarily draw the conclusion that Counsel Assisting is trying to, nor can that be (not transcribable)

30 ASSISTANT COMMISSIONER: Well, I think she's putting the witness what she suggests he would meant, I'm sure he's quite capable of saying that's not what he meant by their own arrangements or that he did.

THE WITNESS: I'm sorry, could you - - -

ASSISTANT COMMISSIONER: Could you - - -

40 MS WILLIAMS: I can ask a slightly different question and that may resolve the problem. I withdraw that last question. You go on to say on the balance of that sentence, that I do not expect to be back so the danger is real. ---Mmm.

What was the danger that you were referring to?---If there was probably no proposal on the table.

Why was that a danger?---Um, I'm trying to recall, I mean, I can't recall.

ASSISTANT COMMISSIONER: Well, is it possible the danger was that they'd miss out?---Yes.

Isn't that what you're alerting them to?---Possibly yes, I accept that.

You'd better get something over pretty quickly or you might miss out?---I accept that.

I mean, you're just giving them a heads up aren't you?---Yes.

10

MS WILLIAMS: And why were you giving Prosys that heads up in your new role as Director of Risk and Audit?---As I previously stated, I probably found it difficult well I did find it difficult to let go having been involved for so long.

Was it not also because you wanted to try and do Prosys a favour?---I certainly liked them as a company, I can't deny that.

20 And you liked the hospitality that they were extending to you?---I can't deny that.

And was that hospitality something that caused you to want to do Prosys a favour by tying up the maintenance agreement in February 2009?---In part but basically I still believe they were the best company to provide the services to the University and was certainly looking at other options, so.

You heard Mr Quinlan give evidence yesterday?---I did.

30 And you heard Mr Quinlan's evidence to the effect that he was unhappy with the quality of Prosys' work for a period from about July 2008, do you recall that evidence?---I do.

Is it the case that Mr Quinlan remained unhappy with the quality of Prosys' work for some time?---It was a specific project as I recall.

40 By the time you made the application for Prosys to receive a sole supplier status in September 2008 had Mr Quinlan's concerns been resolved?---I'd say they would have been. I, I can't recall specifically but, but certainly I, I can recall that I was on leave when a lot of the issues came up and I was confronted with those issues when I returned from leave but as to the specific timing I can't, I can't recall the specific timing.

Did you tell Mr Quinlan that you were making an application for Prosys to be given sole supplier status?---I can't recall whether I did specifically.

I want to ask you some questions about Prosys' invoice for \$7,000 for the site plans?---Yes.

Did you request Prosys to issue that invoice in December 2008?---I did.

And at that stage you didn't know, did you, whether or not the work had been completed?---That's correct.

You knew that there were a number of site plans that had to be incorporated into the Cardax system and modified in order to complete the work, is that correct?---That's correct.

10

Did you know how many site plans?---No.

Did you think it was a large or a small number or you just didn't know?---I probably, I probably thought it was smaller than larger with the number of buildings without Cardax installed on them.

Are you able to estimate roughly how many buildings you would have felt were involved as at the end of 2008?---No, I can't.

20

Why did you ask Prosys to issue an invoice in December 2008 when you didn't know whether or not the work had been completed?---'Cause we had the money in that year's budget.

And was it also said that the University could pay Prosys and Prosys could then pay the St Kilda amount that it had agreed to pay?---Not specifically. Certainly, you know, obviously I was very grateful to Nev but certainly there'd been a push within FMS as a whole to utilise the CAD system so it wasn't something that we did just for the sake of doing. It was something that the directorate as a whole was focussing on the utilising of CAD.

30

Commissioner, I have no further questions for Mr McCallum.

ASSISTANT COMMISSIONER: Now I am happy to allow additional limited questions on that additional evidence, not going back to the beginning. Does anybody want to ask any additional questions at this time? Good. Not.

MR STEIRN: I do.

40

ASSISTANT COMMISSIONER: Oh, you do, Mr Steirn.

MR STEIRN: (not transcribable)

ASSISTANT COMMISSIONER: You should have jumped up.

MR STEIRN: You've been shown - might the witness, Commissioner, be shown that invoice for \$7,700 yet again which my friend, Counsel Assisting, was putting to him. 140 volume 9 I think.

MS WILLIAMS: That's right, Exhibit 9, page 140, Commissioner.

MR STEIRN: You've given evidence - you've been asked the questions about this particular invoice and you've given evidence about it. Now, I suggest to you that was the only invoice that you saw which came from Prosys in relation to that particular job?---That's correct.

10 Might the witness be shown Exhibit 9, page 141 and just take your time to look at that document and I want to suggest to you after you've read it that that particular document would not have been forwarded to the University?
---That's correct.

You understand that to be an in-house document?---Well, it's - - -

I mean by that a Prosys in-house document?---All I can say is it's just, that's, we only get the initial top page, we don't get - - -

You don't get that document?---No.

20 And that's the usual position, is it not, with Prosys invoices?---That's correct.

And do I take it therefore that particular document is something you would never see in the normal course of payments to Prosys based on invoices from them?---That's correct.

30 You've heard all the evidence now in relation to conversations both with yourself and was it a gentleman called Duncan Marshall was it?---Cameron Marshall.

Cameron Marshall. And you've heard, seen rather, emails in relation to Cameron Marshall?---Yes.

And does that in a sense revive your recollection that at one stage Todd Anley was dealing with Mr Marshall - - -?---Yes, I think I - - -

- - - in relation to the specifics of what had to be done?---Yes.

40 And do I take it that Mr Marshall had a better grip of that side of things than you did?---Well, he's the CAD, CAD operator for FMS.

And you had, you had no knowledge of that in any specific sense, is that right?---No, none at all.

Yes, thank you.

ASSISTANT COMMISSIONER: Thank you, Mr Steirn. Yes, well, if there's nothing else you may now be excused, Mr McCallum?

---Commissioner.

THE WITNESS EXCUSED

[4.27pm]

MS WILLIAMS: It remains for me to tender some outstanding documents, Commissioner.

10 ASSISTANT COMMISSIONER: Yes, Ms Williams.

MS WILLIAMS: I tender pages 447 to 520 of volume 1 and ask that they be incorporated in Exhibit 1.

ASSISTANT COMMISSIONER: Yes.

#EXHIBIT 1 - PAGES 447-520 – STATEMENT OF ROSS WILLIAMS DATED 20/12/2011 TO BE INCLUDED IN EXHIBIT 1

20

MS WILLIAMS: And I should indicate those documents are a statement of Ross Williams of 20 December, 2011 and exhibits. I hand up and tender a document entitled Forum Thread, it's marked as page 529 and I ask that it be included in Exhibit 3. That's the document to which my learned friend Mr Watson referred earlier.

MR WATSON: I'm sorry, yes, thank you.

30 ASSISTANT COMMISSIONER: Yes, that will be included in Exhibit 3.

#EXHIBIT 3 - DOCUMENT TITLED FORUM THREAD TO BE INCLUDED IN EXHIBIT 3

MS WILLIAMS: I hand up and tender an email dated 3 December, 2007 from Martin McLean to Jason Richey and ask that that be included as page 392 of Exhibit 6.

40

ASSISTANT COMMISSIONER: Yes.

#EXHIBIT 6 - PAGE 392- EMAIL DATED 3 DECEMBER 2007 FROM MARTIN MCLEAN TO JASON RICHEY TO BE INCLUDED IN EXHIBIT 6

MS WILLIAMS: I tender a bundle of pages marked with numbers 169 to 178 entitled Summary of Payments by UNE to Prosys and I ask that those pages be included in Exhibit 9.

ASSISTANT COMMISSIONER: Yes.

#EXHIBIT 9 - PAGES 169-178 TITLED SUMMARY OF PAYMENTS TO BE INCLUDED IN EXHIBIT 9

10

MS WILLIAMS: I tender the following page numbers of volume CP1 and ask that they be included in Exhibit CP1, they are pages 220 to 329, being Mr Munro's record of interview, and pages 347 to 393, being statements of Kim Cull, Scott Norton, Vicki Anderson, Bill Colless and Ross Williams.

ASSISTANT COMMISSIONER: Yes. They will be made part of Exhibit CP1.

20

#EXHIBIT CP1 - PAGES 220-329 – RECORD OF INTERVIEW OF MR BRIAN MUNRO TO BE INCLUDED IN EXHIBIT CP1

#EXHIBIT CP1 - PAGES 347-357 – STATEMENT OF KIM CULL TO BE INCLUDED IN EXHIBIT CP1

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#EXHIBIT CP1 - PAGES 358-364 - STATEMENT OF SCOTT NORTON TO BE INCLUDED IN EXHIBIT CP1

#EXHIBIT CP1 - PAGES 365-373 – STATEMENT OF VICKI ANDERSON TO BE INCLUDED IN EXHIBIT CP1

#EXHIBIT CP1 - PAGES 374-385 – STATEMENT OF BILL COLLESS TO BE INCLUDED IN EXHIBIT CP1

40

#EXHIBIT CP1 - PAGES 386-393 – STATEMENT OF ROSS WILLIAMS TO BE INCLUDED IN EXHIBIT CP1

MS WILLIAMS: I tender the whole of volume CP2 and ask that that be marked Exhibit CP2.

ASSISTANT COMMISSIONER: Yes.

#EXHIBIT CP2 - ALL OF FOLDER

MS WILLIAMS: I tender the whole of volume CP3 and ask that that be marked as Exhibit CP3.

10 ASSISTANT COMMISSIONER: Yes.

#EXHIBIT CP3 - ALL OF FOLDER EXCLUDING PAGES 314-353 SUPPRESSED

MS WILLIAMS: I submit that an order should be made under section 112 of the ICAC Act in relation to pages 314 to 353 of volume CP3, that being the response to the ICAC questionnaire.

20

ASSISTANT COMMISSIONER: Yes. I make a suppression order in respect of pages 314 to 353 of Exhibit CP3.

I MAKE A SUPPRESSION ORDER IN RESPECT OF PAGES 314 TO 353 OF EXHIBIT CP3.

30 MS WILLIAMS: I tender the whole of volume CP4 and ask that it marked Exhibit CP4.

ASSISTANT COMMISSIONER: Yes.

#EXHIBIT CP4 - ALL OF FOLDER

MS WILLIAMS: And finally in tender the whole of volume CP5 and ask that it be marked as Exhibit CP5.

40

ASSISTANT COMMISSIONER: Yes, that will be so marked.

#EXHIBIT CP5 – ALL OF FOLDER

MS WILLIAMS: And updated list of all of those exhibits will be circulated to all the legal representatives and I invite them to indicate either this afternoon or later if they are missing any documents.

ASSISTANT COMMISSIONER: Certainly.

10 MR STEIRN: Ms Commissioner, in relation to that last document shown to Mr McCallum which was the in-house document, I think it would assist this inquiry if you were to receive some short evidence from Mr Magi as to what it means to Prosys.

ASSISTANT COMMISSIONER: That, the in-house document?

MR STEIRN: Yes, at page 141 of Exhibit 9.

ASSISTANT COMMISSIONER: Do you think it is – in what way is that significant?

20 MR STEIRN: Well there was some, there was some mention made, if you have the document in front of you, it talked about all work is complete.

ASSISTANT COMMISSIONER: Yes, I do recall that.

MR STEIRN: Now I don't know how Counsel Assisting intends to put or deal with that (not transcribable) submission adverse my client, but if that's an intention it should probably be cleared up now, sooner rather than later.

30 ASSISTANT COMMISSIONER: I think that's something that could be dealt with in submissions could it not?

MR STEIRN: Well I just make the offer and whilst I'm on my feet, we just want to rectify, it should go on record to say that very early in this inquiry we assisted the Commission by providing a great number of documents in relation to a certain amount of which did not form part of the investigation prior to my client's company providing those documents on instructions.

ASSISTANT COMMISSIONER: Yes. That's is noted. Thank you Mr Steirn.

40 MR WATSON: Commissioner, just one, just one housekeeping matter. I think my friend sitting next to me I may or may not (not transcribable) in so far as there's been references to folder 02 and to folder CP5, we do not appear to have received those. I'm not sure that they really touch on the matters concerning to Quad, but, to Quad Services and Mr Yardley. But I just (not transcribable) the fact in terms of making any submissions there may be material which you have Commissioner, we know nothing about, so

- - -

ASSISTANT COMMISSIONER: I'm sure for the purposes of your submission you'll be provided with any material at your request. I would say in general those folders deal with corruption prevention issues to do with the University.

MR WATSON: Yes. I assumed that that was the case.

ASSISTANT COMMISSIONER: Yes, Ms Williams.

10 MS WILLIAMS: Commissioner, in view of Mr Steirn's last comment, could I just place on the record that the material that was provided as Mr Magi confirmed in his evidence is pages 139 to 168 of Exhibit 9. If Mr Steirn considers that there is other material provided to the Commission that is not in evidence I would ask him to take that up with me at a later stage so that we can ensure it is included in evidence.

ASSISTANT COMMISSIONER: Yes, I didn't really understand that to be the point of his comment. I thought he just wanted it placed on the record that they had assisted by providing information. Is that - - -

20

MR STEIRN: Correct. If there's anything further we can assist we'll do so.

ASSISTANT COMMISSIONER: Yes, yes. That's fine. Now in respect of submissions Ms Williams?

ASSISTANT COMMISSIONER: If I could have two weeks, Commissioner and the period after that for others is a matter for you.

30

ASSISTANT COMMISSIONER: Yes. Well I think, yes, two weeks for counsel assisting to circulate her submissions and two weeks for response by other parties I think is reasonable. They will be written submissions and as is the usual practice I will make a suppression order in respect of the submissions. They are not for publication, they're for circulation and assistance of counsel.

MS WILLIAMS: Commissioner, if I could just indicate, I'll actually be overseas from 8 February until 28 February.

40

ASSISTANT COMMISSIONER: Yes.

MS WILLIAMS: And I think that two period, I could possibly have three weeks, at least that will give me a week while I get back to - - -

ASSISTANT COMMISSIONER: Yes, Mr Williams, you may have three weeks. Yes, if there's nothing else this public inquiry is now concluded. Thank you.

AT 4.34pm THE MATTER WAS ADJOURNED ACCORDINGLY
[4.34pm]