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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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AT SYDNEY

ON TUESDAY, 24 JANUARY 2012

AT 2.03 PM

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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: Is it convenient, Commissioner, if I continue the examination of Ms Cutler or do you prefer to interpose Mr McCallum for other representatives to examine?

ASSISTANT COMMISSIONER: I think if we continue with Ms Cutler and then interposer Mr McCallum.

10

MS WILLIAMS: Yes, Commissioner. Thank you.

<DOBRILLA CUTLER, on former oath

[2.03 pm]

MS WILLIAMS: Ms Cutler, I was asking you some questions before the adjournment about entertainment that Quad provided to Mr McCallum, do you recall those questions?---Yes.

20

And I was asking you in particular about regular monthly lunches, do you recall that?---Yeah.

In addition to those lunches there were occasions, weren't there, when you and Mr Yardley took Mr McCallum out to expensive dinners, do you recall that happening on occasions?---Yes.

And I want to suggest to you that one of those dinners happened on 5 February 2008?---I don't recall the dates but I do recall that we did go out, yes.

30

All right. To give that some context I'm suggesting that that occasion coincided with Quad's contract being extended from a three year term for an additional two years by the University, do you recall that there was a decision to be made about that in early 2008?---No, I don't.

You understand that Quad's contract that had entered into with the University in 2005 was envisaged to be for a five year term but it was on the basis that it was up to the University whether or not it was extended beyond that initial three years?---Yes.

40

Right. And do you agree with me that that initial three year period terminated in February 2008?---2005, yep. Yes.

And was the dinner that you and Mr Yardley took Mr McCallum to on 5 February 2008 was that in some way connected with the decision by the University to extend the contract for those further two years?---So when you're saying dinner it would be night time, is that correct?

Yes, I'm suggesting to you it was an evening where you and Mr Yardley took Mr McCallum and his superior officer Mr Quinlan to dinner?---If it was dinner anything to do with any University work would've had to have happened during the day not at night time over dinner.

Yes, but was - - -?---Any conversations or anything like that would've happened during the day not of a night time.

10 All right. Assuming that to be so though was the dinner a thank you in effect to Mr McCallum and Mr Quinlan for extending the contract for a further two years?---I don't believe it was, no.

It would've been though, wouldn't it, at least in part to continue to foster the good relationship that Quad Services wanted to have with Mr McCallum?
---No, I don't believe it was. Andrew Yardley used to come up there maybe twice a year and it just so might've happened that he was there at that time.

20 Mr Yardley took Mr McCallum out to dinner on other occasions as well didn't he?---Yes, on several occasions, yes.

One occasion I suggest where you were also present in about November 2008, does that sound about right?---Anything around the November/December period might've been just purely because it was before Christmas.

30 And there was a further dinner I'm suggesting to you in December 2009 where you and Mr Yardley attended with Mr McCallum?---That's what I'm saying, if it was around November/December it might've been just because it was nearing the Christmas period.

All right. And as you understood it these dinners were ultimately paid for by Quad Services, correct?---Yes.

Mr Yardley paid or you paid at the restaurant?---No, Andrew did.

And you understood that he was reimbursed for that by Quad Services?
---Yes.

40 And what was your understanding of Quad Services' purposes in paying for you and Mr Yardley to take Mr McCallum out to dinner on these occasions?---Well, like I said if it was between November to December it might've been purely the fact that he came up there for Christmas to have dinner with them because - - -

ASSISTANT COMMISSIONER: Ms Cutler, you're not answering the question. Whether it's Christmas or not the question is what interest did

Quad have in paying for this dinner? Was it because they, you know, I mean from your - - -?---The interest would be - - -

- - - answer it's just a - - -?--- - - - the business relationship.

Yes, thank you. Yes, Ms Williams.

MS WILLIAMS: Did you from time to time authorise Mr Turner to arrange to provide Friday afternoon beers for FMS to have a drink in their offices?
10 ---Occasionally, yes, I did.

And you organised Mr Turner's expense claims to recover the cost of that from Quad Services?---Yes, I did.

And the purpose of authorising that expenditure was to foster the relationship between Mr McCallum and FMS and Quad Services, correct?
---Yes.

Did you also authorise Mr Turner to make contributions on behalf of Quad Services to FMS's Melbourne Cup lunches held at the St Kilda Hotel?
20 ---That I did.

Do you recall doing that on more than one occasion?---I can't recall how many Melbourne Cups but I do know that it was on at least one, maybe two occasions, yes.

And that was for the same purpose wasn't it to cement the business relationship between yourself on behalf of Quad Services and Mr McCallum?---Yes.
30

And cementing that relationship in the hope that Mr McCallum would act in a way that was of some assistance to Quad when he came to make the kinds of decisions under the contract that I referred to in asking you questions before lunch?

MR MADDEN: I object to that, Commissioner. That means that Quad needed some assistance. There's no evidence that they needed assistance.

ASSISTANT COMMISSIONER: Well, I don't see that that follows at all from the question that they needed assistance.
40

MR MADDEN: Well, the question suggests that Quad needed some assistance.

ASSISTANT COMMISSIONER: No, the question suggests that he might be influenced to favour them, that doesn't mean they needed assistance.

MR MADDEN: Well, the question would desist.

MS WILLIAMS: Well, I'll change the language, Commissioner, if it will resolve the issue.

MR MADDEN: Well, it's not so much the language, it's the inference in the question.

10 MS WILLIAMS: I'll withdraw the question and I'll ask you another one Ms Cutler. The reason that you and Quad Services wanted to cement the relationship with Mr McCallum by providing this hospitality, the lunches, the dinners, the beers, the Melbourne Cup contributions was so that Mr McCallum might be disposed to act in a way that was favourable to Quad when making decisions relating to the cleaning contract. Is that right?---The problem that I'm having is that in those instances it wasn't just Col McCallum. It was, you know, the FMS people that attended those functions as well. That's the reason why I'm having difficulty in saying yes or no to those questions.

20 So you - - -?---Because you're, you're, your question to me is re Col McCallum.

That's right?---But FMS wasn't just Col McCallum. There were other people as well.

But you agreed with me before lunch as I understood it that Mr McCallum was responsible for making decisions under the cleaning contract relating to whether or not Quad had performed its obligations?---Yes.

30 Relating to pricing variations?---Yes.

Other kinds of variations to the contract?---Yes.

Whether or not the contract should be extended?---Yes.

And because of his role in making those what I call significant decisions for shorthand purposes, it was with Mr McCallum that Quad and you were particularly concerned to cement the relationship. Correct?---Yes.

40 Now you don't tell the Commissioner do you that just because on some of these occasions involving Friday afternoon drinks and Melbourne Cup, people in addition to Mr McCallum might have been there, you don't tell the Commissioner that contributions to those events had nothing to do with cementing the relationship with Mr McCallum do you?---No.

Could Ms Cutler be shown volume 3, please at page 166. Ms Cutler, could you take a moment to read the email chain at pages 166-167 and just let me know when you've done so?---Yes.

Up until about February 2007, the University had provided a van to Quad Services to use in performing the cleaning work. That's right isn't it?
---That's correct.

And the University had bourn the cost of that van. Correct?---That's correct.

Do you recall seeing these particular emails previously?---I don't recall this – seeing this email at the time that it was sent but I have seen it since.

10

All right. So it wasn't shown to you at the time back in October 2006. Is that right?---Well from what I can see I must have been, no. I cc'd in on one of the emails, but I was on annual leave at the time that the email come through.

All right. Do you recall that the email that was cc'd to you had attached to you the email immediately below that from Mr McCallum to Mr Naidoo?
---As I said I don't recall seeing it back then but I have seen it since.

20 All right. Could you turn to page 182 of volume 3 which you have there, please?---Yes.

Is that a document you've seen before?---Yes.

Is that a note that you made?---Yes.

And does that assist you to recall that in February you had some discussions with Mr McCallum regarding what was to happen with this van that the University had been providing to Quad Services?---After seeing that email,
30 yes, that would be correct.

All right. And is it the case that an arrangement was made between Mr McCallum and you in February 2007 that the University was going to start charging Quad for the use of that van, that was correct, wasn't it?
---Yes. I think the conversation at first was with the site supervisor and then I was told of it, yes.

All right. Did you have a discussion directly with Mr McCallum?---I would have after it was brought to my attention, yes.

40

Right. Does the first part of your note headed "Meeting UNE 15 February 2007" indicate that you had a discussion with Mr McCallum yourself on that day?---Ah, yes.

All right. And what I'm suggesting to you is the substance of that discussion is as recorded in the note there, the University would charge Quad Services for the use of the van, do you agree with that aspect?---Yes.

But Mr McCallum was prepared to arrange for the University to in effect reimburse Quad for those costs, correct?---Yes.

And that would be done by Quad Services invoicing the University for the same amount that it was charged for the van plus five per cent, do you agree with that?---Yes.

And that was a proposal put to you by Mr McCallum and accepted by you, is that right?---Yes.

10

And to your knowledge Quad Services did in fact invoice the University for those costs, correct?---Yes.

And the costs were described on the invoices as external cleaning?---Yes.

And was that done on instructions from you to somebody within the administrative staff in Quad Services?---It would have been asked of me to do it that way and then I would have obviously asked for the invoice to be worded in that way.

20

So Mr McCallum asked you to word the invoices that way and you instructed Quad staff accordingly, correct?---Yes.

And does the second part of your note there headed "20 February, 2007", does that assist you to recall that the arrangement also extended to any invoice you received from the University for petrol costs for the van?
---Yes.

30

So in the event that you received those invoices from the University you caused an invoice to be raised for the same amount described as external cleaning and submitted to the University, is that correct?---Yes.

And so far as you can recall all of those invoices were in fact paid by the University?---Yes.

40

Correct. Did you query at the time why Mr McCallum wanted these invoices described as external cleaning when that was not the case?---I, I can't recall querying it with, with Col McCallum, however, I, I assume that because it was the motor pool and the direction came from Col McCallum and FMS that it was something that was like an internal, I don't know, it was arranged internally.

Wasn't it rather obvious that the University was intending to pass on the costs of the vehicle to Quad Services?---(NO AUDIBLE REPLY)

That was obvious to you at the time, wasn't it?---Yeah, yeah, that was obvious at the time.

That was the only reason why they would be issuing you an invoice with the costs of the, for the costs of the vehicle, correct?---Yes.

And wasn't it also obvious then that the University wouldn't be expecting to be charged that amount back again for the vehicle, wasn't that obvious to you at the time?---No, it wasn't. I, I can't recall exactly how the conversation went but at the time no, it wasn't obvious.

10 And separating for the moment Mr McCallum and the University, do you understand that?---Mmm.

Wasn't it obvious to you that whilst Mr McCallum was content for Quad Services to charge those costs back to the University the University itself would not be willing to pay those costs?---The way that I, the way that I was approached and asked no I, I didn't give it a second thought.

All right. But in any event you issued invoices with a description of work that was false. Do you agree with that?---Yes.

20 And you did that at Mr McCallum's request?---Yes.

I'll just put this proposition to you and ask you to agree or disagree with it. But what I'm suggesting is you must have realised that Mr McCallum was putting in place an arrangement that would allow Quad to recover its costs without the University realising that that was occurring in relation to the vehicle?---Yes, now.

30 That was obvious at the time?---Not at the time, no. I really didn't think it through, no. I was asked to do it and, yeah, I did it.

See I want to suggest that if you had thought about it at the time that would have been obvious wouldn't it?---Yes, it would have been obvious.

And what I want to suggest is this is one of the little favours that Mr McCallum was prepared to do for Quad Services in his administration of the cleaning contract?---Yes.

40 And these kinds of favours, this kind of thing was one of the reasons why Quad was keen to maintain a close relationship with Mr McCallum?---I don't know how to answer that because I at the time didn't think that it was a – I know it was a request made by Col for us to do that, I'll say yes.

ASSISTANT COMMISSIONER: Ms Cutler, you must have realised it was a favour in the sense you were receiving an invoice that you would have had to pay but then you were allowed to invoice it straight back to the Uni. That was a favourable result for Quad wasn't it?---Yes, it was.

It's better than having to pay the invoice and not get any money back?

---Yeah, yes it was.

So it was a favourable outcome?---Yes.

And I think you've accepted that it was a favour done for you by Mr McCallum?---Yes.

10 And don't you accept that – let me come at it this way, in terms of the entertainment that was given to Mr McCallum that was based largely on the position he held at the Uni wasn't it?---Yes.

In particular the position he held - - -?---That's right.

- - - in respect of the contract?---Yeah.

See you weren't entertaining the junior office clerk were you?---On occasions there was, yeah.

20 For the lunches and the dinners you weren't. I'm not talking about the Melbourne Cup day?---No, no, no.

You were taking Mr McCallum out because of his position. Do you agree with that?---Yes, I agree with that.

Because he was managing the contract in which your company was involved?---That's right.

30 And on occasions during your relationship he was in a position to do favours for your company. This is an example we've just discussed?---Yes.

And that was at least part of the reason that you entertained him and kept a favourable relationship with him?---Yes.

Yes, thank you Ms Williams.

MS WILLIAMS: Thank you, Commissioner. Ms Cutler, you made the notes that appear at page 182 of volume 3 didn't you because even at the time the arrangement struck you as a little unusual?---Yes, it did.

40 So you were careful to record what you'd been asked to do in case anybody at the University later queried it. That's right isn't it?---I think it was more so that if there was a change in the position that Col held that there was an explanation on file.

Right. Thank you. You recall that Mr – I think I asked you before lunch about Mr Turner being employed with Quad Services. That was in about the middle of May 2007 you said. Is that correct?---14 May, yes.

Yes. And that came about, didn't it, initially because Mr McCallum provided you with Mr Turner's resume and suggested that you consider him, employing him for the University work?---The way it came about was that the site manager at the time had resigned and that I needed a new site manager. I, I believe back then that I may have advertised for the position. I know that there were one or two of the cleaners that were working for us that actually applied for the position as well and I obviously had to notify Col that the site manager had resigned and at that time he mentioned to me
10 that when the contract was first started that there was a number of people that were interviewed for the original position and that I should be able to find some resumes on file and, which I did, I found them on file in, in our office.

All right. So you looked at resumes that had been submitted what, approximately two years earlier?---Back in 2005 when the contract was awarded and Frank Seibert at the time had completed the interviews for the site manager's position back then.

20 Do you say that Mr McCallum didn't give you a copy of Mr Turner's CV and suggest that you look at Mr Turner for this supervisory role?---I, I don't recall him giving me a copy of the CV. I believe that I found that in the filing cabinet, however, Col McCallum did mention to me that Bill Turner had been interviewed initially by, by Frank.

Right. And in what context did he mention that to you, suggesting that you should consider him on this occasion?---I think it was when we were discussing about the, the resumes that first came through that Nicola who was the first site manager was obviously interviewed and appointed through
30 those resumes. He said that there were a few other people and he did mention Bill Turner's name.

And Mr Turner, did he do a good job once he started?---When I interviewed Bill for the position the fact that he knew the campus, the fact that he knew people on campus, the other factor was that he had supervised people in the past. I felt that he was one of the better candidates at the time.

All right. I wasn't actually asking about the reasons for employing him but what knowledge did Mr Turner have of the campus at the time that you
40 employed him?---Basically he knew his way around, he knew the buildings and he knew various people on site.

And he'd done previous work on the campus, is that what you were saying?
---I think he was involved with the student union or - - -

Right?--- - - - and, and through his position with Carlton Breweries there was obviously the awareness of, of the campus itself.

All right. He didn't have any cleaning experience per se did he?---He had done some very minor cleaning but at the time that I was, I was looking for a site manager I needed someone more so that could, could communicate with the various clients that we had on site, that had computer skills, that knew his way around. Our first site manager that I didn't employ, was employed when I arrived at the campus, she didn't have any cleaning experience either.

10 All right. Can you remember how many if any other people you interviewed for the position at the same time you interviewed Mr Turner?
---Yes, I, I interviewed three other people for the position.

All right. And once he started in the role did Mr Turner do a good job as far as you were concerned?---He was able to pick up on, on what was required very quickly. He did have assistance obviously but, yes, as time went on he was able to communicate, he was able to resolve any cleaning issues that arose. Obviously, you know, timekeeping ah, all of that, he had the, the computer skills to be able to do that, that work.

20 So is the effect of your answer that on the whole you were satisfied with his performance?---Yes, yes.

Thank you. Were you aware that Quad Services was sponsoring a local rugby union team by the name of the Barbarians in Armidale?---Yes, yes.

And to your knowledge did that commence in 2005 or 2006?---No, I think it commenced in 2007.

30 Right. And the amount of the sponsorship each year, did you know what the amount was?---Yes, \$3,000.

And do you know whether that \$3,000 amount was included in Quad's internal calculations of its price reviews that it submitted for the cleaning contract each year?---That I'm not sure of.

All right. Who was responsible for making a submission to the University on behalf of Quad each year as to pricing revision of the cleaning contract?
---I believe the Contracts Manager would've raised any indexation increases.

40 Right. And who was the Contracts Manager at the time?---I think there was a couple, there might've been Chantelle Thomas and then I – at first I didn't remember Daniel Rippen but he was there for a short period of time and then Hametha Angvan would've been there.

Right. Did the sponsorship change from the Barbarians to the New England Rugby Union in about 2010?---I understand it did in the last year.

Were you aware of that at the time or that's something you've become aware of since?---No, I wasn't, I wasn't aware of it straightaway but I would've been told and that would've probably have been by Bill Turner that there was to be a change on that last sponsorship.

And when you were told by Mr Turner were you also told that Mr McCallum would receive a percentage of that sponsorship amount - - - ?---No.

10 - - - from New England Rugby Union?---No. I wasn't aware that there was an association.

Thank you. The University issued a Request for Tender for a new cleaning contract in December 2009, do you remember that?---Yes.

I want to suggest to you the date of the Request for Tender was 17 December 2009, does that sound accurate?---I don't know.

20 Right. You can't remember the precise date?---No. No.

Before that Request for Tender was issued did you have any discussions with Mr McCallum about the University's requirements, what would be included in the scope or other matters relating to that new tender?---I don't recall that I did, no.

All right. Are you aware whether anybody else from Quad Services had discussions of that nature with Mr McCallum?---Not that I was aware of, no.

30 No. Did you have discussions with anyone other than Mr McCallum at the University about those matters before the Request for Tender was issued? ---Yes, Bill Turner.

Right. And Bill Turner though was Quad Services employee at the time? ---That's right.

40 In those discussions, or based on those discussions with Mr Turner was it your understanding that Mr Turner had any information about what would be included in the work to be tendered for or what the University's requirements were going to be?---I don't recall that I did, no.

All right. So the nature of your discussions with Mr Turner related to Quad's - - -?---Quad business, yes.

All right. Could Ms Cutler be provided with volume 1 at page 437 please. And volume 3 might be handed back. Do you recognise that document that commences at page 437, Ms Cutler?---(NO AUDIBLE REPLY).

It goes from 437 over to 446 and please take a moment if you need to look through it?---Yes.

Is this document a standard format Quad Services document (not transcribable)?---I have seen this document before, however, I've never seen it filled in like this.

MS WILLIAMS: All right. You see in the top left hand corner against site it has UNE Armidale?---Yes, it's a bit hard to read, but - - -

10 Yes it is hard to read the printing in red?---Yeah, yeah. Yep.

And then the next item along it says GM and then the initials in red are DC?---Ah hmm.

Does GM stand for General Manager?---Yes, it does.

And does DC stand for you, your initials?---Yes.

20 Is this a form that you completed?---I don't remember completing this form.

Perhaps if we just go to the next line down, you see it says there date JPR raised?---Yeah. I think it says the 11th of the 12th.

2009 is my reading of it?---'09, yeah.

Does that appear on your copy?---Yep.

30 Would that mean that this form was completed on or about that date?---Well that's what the date suggests, but as I said I have seen the form in its blank form, but I've never seen this filled out like this.

All right. Had you had occasion to complete forms of this nature in connection with your work for Quad Services as a General Manager?---No, I don't, I don't recall filling out one like this before.

40 What's your understanding of the circumstances in which – and the employees of Quad who would fill out forms of this nature?---Sorry what was that question again? I was reading.

Well I'll come at it at a different way. I'm going to ask you some questions about what's stated in the form and I'll then ask you once you've had a chance to see what is said - - -?---Ah hmm.

- - - whether you can recall if you filled out the form and if not who's likely to have filled it out in relation to the UNE contract. So do you see the question in the table Information on Hand on page 437, is this site price

vulnerable in a competitive tender situation? Do you see that question listed there?---Yes.

And do you see the response in red, a capital N, which I take to mean no. Do you agree?---Yes.

And do you see there in the third and fourth last lines of the table there's an indication given that the satisfaction of the main contact and associate contacts is very good. Do you see that?---Yes.

10

Would anybody other than you at Quad Services have been in a position to assess whether the level of satisfaction of the contact people that the client was very good or otherwise?---Well it would only be myself or possibly our PR department that would do regular calls to our clients to gauge their satisfaction of our services.

All right. If you go over to page 438?---Yep.

20 Do you see there just down from the top of the page there's a sub-paragraph which is marked B in red, which says, this relates to - - -?---It's very difficult to - - -

It is very difficult I agree with that. It's the fourth typed line on the page? ---Yep.

And it says this relates to JRP situation. Do you see that reference there? ---Yes.

30 And I think if you look closely you can see in red after that JRP5?---I can see JRP, the 5 is not very clear, but - - -

All right. If you go over to page 40?---Yes.

Do you see there there are three headings, one relating to JRP1, JRP2 and JRP5?---Ah hmm.

Do you agree with me that's it's only the section relating to JRP5 on pages 40 and 41 that appears to have been completed?---Yes.

40 Okay. I'll just ask you to take a moment to read what appears underneath that JRP5 heading on pages 40 and over the page to 441, please?---It's extremely hard to read.

Commissioner, I think we're going to have to arrange to have another copy printed off in fairness to Ms Cutler?---It is very hard.

ASSISTANT COMMISSIONER: Yes, I think it's slightly easier to read on the screen. Do you find that any easier to read at all?---That's pretty blurry as well, yes, sorry.

No, I know it is blurry.

MS WILLIAMS: I am told that can be done - - -

ASSISTANT COMMISSIONER: All right.

10

MS WILLIAMS: - - - immediately but in the meantime perhaps if Ms Cutler might stand down and Mr McCallum might be recalled if that's not too - - -

ASSISTANT COMMISSIONER: Yes, yes.

MS WILLIAMS: I apologise, Ms Cutler, we'll have an original copy printed off?---That's okay.

20

ASSISTANT COMMISSIONER: Yes. If you wouldn't mind just standing down for the time being and we'll recall Mr McCallum.

THE WITNESS WITHDREW

[2.41pm]

ASSISTANT COMMISSIONER: Thank you, Mr McCallum You're still under oath?---Thank you, Commissioner.

Thank you. Yes, Mr Steirn, do you want to go first?

10 MR STEIRN: Your Honour, I understand Mr McGirr who represents Todd Anley has some short questions to ask, he's going to go first.

ASSISTANT COMMISSIONER: Yes. Yes, Mr McGirr, thank you.

MR MCGIRR: Mr McCallum, you worked in this position for a long time. Would it be fair to say during that time the, the job has grown enormously? ---Ah, yes.

20 And so far as your relationship with the Prosys has concern, is concerned, your relationship with them goes back many years so far as this job is concerned, correct?---That's correct.

And so far as - do you remember being asked this morning some lengthy questions about the CAD site plans?---Yes, yes.

And installing them into Cardax?---Cardax, yes.

30 Now, all of your dealings in relation to that matter so far as Prosys is concerned on site if I can put it that way were with Todd Anley, is that right?---Yes.

And would it be true to say that he was the only one on site, other than other people from Prosys if they were there from time to time, that would have had the knowledge necessary either from Prosys or other parties (not transcribable) to say change the plans?---Yes.

40 Now, in relation to those plans do you recall when the idea first came up and with whom to change the CAD site plans to make them able to be put into the Cardax system?---I can't recall exactly, I remember speaking to Todd, particularly about - oh, and to other universities about the benefit of having them in there.

Right. And would it be true to say that, that that idea would have surfaced if you like probably in early 2008 or earlier or later?---Oh, look, it certainly would have been in 2008, it wasn't - obviously there's emails about it in July so we would discussed it before then.

Yes. Well, I'm asking you whether it's possible it was early in 2008? ---Yeah, it is possible, yes.

Right. And, and would that have been - and I notice you've been having various meetings all the time when Mr Anley is on site, if I could put it that way?---Yes.

And, well, could - do you recall when the conversation originally occurred?
---No, I'm sorry, I can't.

10 Or the terms, or the terms of that conversation?---No, I'm sorry, I can't remember the specifics.

Well, I put to you that you made an oral request to Mr Anley in or about mid to early 2008 about whether it was possible, whether it was possible to put the CAD site plans onto the Cardax system?---Well, well, as I said this morning there, there would have been negotiations beforehand to see if it was practical yes, so I accept that I would have had that conversation with him.

20 And I put it to you that Mr Anley in mid-2008 emailed you saying that it was possible to, to make the systems compatible. Would that be your recollection?---It's not my - as I said, I can't remember specifics but we did discuss and work through the - whether it was practical or not prior to those emails in July.

Well in July 2008 you received an email from Todd Anley, it's schedule 2, requesting site plans?---Yes.

30 So there must have been some instruction to Mr Anley to carry out some work in that regard don't you think?---Yes.

And that would have been done by you orally?---Yes.

Not in writing?---Yes, yes.

And then later on there's an email from you to Cameron Marshall re getting a drawing to Prosys to Todd Anley?---Yes.

Correct?---Yes.

40 Now I put to you that was one drawing?---I think - I thought I included in one of my responses this morning that I didn't know whether it could have been a test drawing that we'd sent down.

I'm just going to try and see if you - I put it to you it was one test drawing -
- -?---Yes.

- - -to see if Mr Anley could succeed?---Yes.

Do you recall that?---I, I recall the email shown to me this morning and it related to a building. It was - - -

Yes. All right. Now in relation to later on, did you liaise regularly with Mr Marshall in this regard from mid-2008 say?---I can't say that – I can't recall that I liaised with him – what was your terminology?

Liaised with Mr McCormack about this issue of changing - - -?---Oh, yes well he was the one who had to supply the drawings.

10

And so far as you were aware - - -

MS WILLIAMS: Sorry, I object, Mr McCormack or Mr Marshall?

MR McGIRR: Sorry?

MS WILLIAMS: You referred to two.

MR McGIRR: Cameron Marshall, I'm sorry. I don't know who Mr McCormack is. I said McCormack did I?---I think so.

20

MS WILLIAMS: Yes.

MR McGIRR: Yes, I'm sorry. I mean Cameron, Cameron Marshall. You were having regular conversations with him?---Well I was having a conversation with him.

Right. And how regular they were you can't be sure?---Yeah, yeah.

30 And presumably you believed he was having conversations with Mr Anley also?---Yes.

And they were liaising together on this project?---Yes.

And this project being to, to get the CAD site plans on to the Cardax?---Yes.

CAD I mean C-A-D. Right. So are you aware that after this drawing, this one drawing there was then supplied to Mr Anley a CD of all the drawings then available?---I don't recall that specifically but it's quite practical that it was.

40

And are you aware that they were then put into the system?---As I stated in my evidence this morning I lost track of what – where that process was up to.

You see, you see I put it to you that by, by July 2008 most of these plans had been entered from CAD into Cardax?---I couldn't even hazard to guess

to the percentage. I got – I can only say that I lost – I thought – I knew the process was in place, I can't tell you that I tracked it.

So you can't – but did you never look at these things to see if the plans were on Cardax?---No, no I didn't.

But you told the Commission this morning that so far as the invoice for \$7,000 for doing this work was done and most of the work hadn't been done by November?---That was my, that was my recollection at the time.

10

Well, is that still your recollection?---Well, it is my recollection, I can't tell you the percentage, I knew that there was a process in place but I couldn't tell you to the percentage of what my – because I'd lost track my recollection was that the majority hadn't but if they had then I'm quite happy to accept that but my recollection was as I stated this morning.

But if you accept that by – you've seen these emails from Mr Anley, Cameron Marshall and what-have-you - - -?---Yes.

20

- - - sending disc, sending requisitions and so on and so forth, that's in July of 2008?---Yes.

And you don't deny that further information so far as all the drawings were – all the CAD plans were furnished by disc to - - -?---I know that further drawings were sent.

Right. And what was the purpose did you understand they were sent for? ---Well, to be – obviously to be included, imported into the Cardax system.

30

Right. So wouldn't you have expected that to be done then when all the information had been provided?---Yes, but I can't state that I know, if it has been done I accept that but at the time I – my recollection is I didn't know.

But you were the manager of this weren't you?---Absolutely.

So wasn't it your job to inquire?---It was my job to inquire.

But you didn't inquire?---No, I didn't.

40

Right. But you've told this morning the Commission that so far as you knew most of the work had not been done?---Well, that was my recollection at the time but if – as has happened on other occasions if there's something that can correct me, I'm sorry, my – I can only work on the memory that I'm working off and if it has been done then I'm incorrect.

So to put this in – now, there are what we call devices in these buildings aren't they? Do you know what a device is so far as Prosys is concerned? ---Sorry?

The devices that they're talking about in buildings?---The majority of them, yes.

Their security locks - - -?---Yes.

- - - might be monitoring a whole series of things?---Yes.

10 Now, have they ever been logged to your knowledge say up to July 2008?
---How do you mean like - - -

Well, has every device in every building been logged on to a plan?---Not that I'm aware – I couldn't even answer that.

So you don't recall Mr Anley arranging for that to occur?---I know we were working through the system but I didn't know – I can't recall specifically whether it was a modification of what was in there or I remember an error with naming protocols and we were trying to tidy up.

20 Do you recall that there was a period I think in 2008 when all the devices had to be tested?---Yes.

And do you recall Mr Anley arranging for those technicians to log the devices in each building as they did it?---That would've been with the – that would've been part of the process, I don't specifically recall, I would assume that was part of the process, yes.

30 You assume?---I can only reiterate that I lost – because of my position and the role - I was completing a number of duties is to hand stuff over and not follow it up, I just assumed on occasions so - - -

The point I'm making is if that work had been carried out and separate to the maintenance contract documentation had been organised by Mr Anley to log onto a piece of paper in each building the devices and then subsequently that was transferred to the computer, the Cardax system. Wouldn't that be part of the, as we call it, this process of bringing the Cardax system bringing it all up to date?---Yes, yes.

40 And to your knowledge weren't the devices logged on to the system by say mid, or the end of 2008?---My memory of this is very poor and it's - - -

So you don't recall it? Nobody's expecting you to remember everything and (not transcribable)?---And I think at that stage I still had – I'm not sure whether Rick Toshack was still working or coming across to be the filter in between so there was another person in between that I was relying on for information.

I want to be fair to you also. I'm not saying that all devices had been logged on, I'm saying the ones where Mr Anley – the ones available had been logged into the Cardax system where they were not before?---Yes.

ASSISTANT COMMISSIONER: Do you know that happened?
---Commissioner, my memory is really struggling with the actual specifics but - - -

10 Yes. Mr McGirr, I think this witness has made it pretty clear he has no memory of what specific work Prosys were doing in this context.

MR MCGIRR: But he's given evidence that he believed most of the work hadn't been done.

ASSISTANT COMMISSIONER: Well, I think - - -

MR MCGIRR: And now he's telling us he - - -

20 ASSISTANT COMMISSIONER: - - - what he said was he did not – when he looked at that invoice he did not know that the work had been done, he couldn't say the work had been done.

MR MCGIRR: Is the reason you weren't aware some of the work hadn't been done was that you hadn't seen an invoice for it?---Possibly, yes.

For instance, have you ever seen an invoice for all this liaison and work that Mr Anley's done that I referred to with Mr McCallum prior to say November 2008?---No.

30 Well, did you expect them to work for nothing in that regard?---I can't remember what the arrangements were but - - -

Now, your knowledge of budgetary process in universities - - -?---Yes.

- - - I think they finish the year in December?---Yes.

Did this apply to Uni New England as well?---Yes, yes.

40 And it's not unusual, is it, for people to ask for invoices even in respect to work that's to be carried out say with an invoice November, December for work to be carried out in that period of time even though the work hasn't been carried out?---That's correct.

And isn't that possible that occurred in relation to the invoice of \$7,000 on 11 November?---Yes, that's possible.

And isn't it also possible that that work related in a large amount to the work that had been carried out by Mr Anley that I had referred to in

bringing the system into the Cardax system prior to November 2008?---It's possible, yes, it's possible, yes.

Well, is it possible or probable (not transcribable).

10 ASSISTANT COMMISSIONER: Mr McGirr, how can he say it's probable when he doesn't even know anything about the work you've been asking him about? You're now asking him to say assuming this work happened, which you don't know happened, is it not probable that this invoice related to that work which you do not know happened. How can the witness possibly answer that question?

MR MCGIRR: No, he said he believed that the work related to work that hadn't been done and therefore he must - - -

20 ASSISTANT COMMISSIONER: He didn't say anything like that, you put to him a general proposition that sometimes before the end of the financial year people asked for invoices to be put in for work that is yet to be done, he said that's possible. It's a theoretical proposition. He's already given evidence about what he thinks this particular invoice about which we're talking was directed to.

MR MCGIRR: I'll try and clarify it. This invoice of November for \$7,700 (not transcribable). Also it refers to exactly the work I've been talking about, doesn't it, with changing from CAD onto the Cardax with the site plans and everything?---Yes.

Is that true?---Well, I said it was this morning.

30 It was this morning. Therefore, I think you've accepted that Mr McCallum and Mr Anley carried out various forms of work in relation to the matters described in that invoice?

ASSISTANT COMMISSIONER: He's Mr McCallum, can you rephrase the question, I don't know what you're putting to him. Are you saying Mr McCallum and Mr Anley carried out work?

40 MR MCGIRR: Right. I referred to, in the earlier questions, about McCallum and Anley swapping – getting discs and drawings - - -

ASSISTANT COMMISSIONER: I'm sorry, you mean Mr Marshall.

MR MCGIRR: Sorry. Cameron and Anley.

ASSISTANT COMMISSIONER: Cameron Marshall.

MR MCGIRR: Cameron Marshall and Anley - - -?---Yes.

- - - popping discs and drawings (not transcribable)?---Yes.

And that would be for the purpose of some of the matters described in the invoice?---Yes.

And if, if it was that as I've told you all of, all the buildings available had been entered from CAD site plans to Cardax that would be largely covered in that invoice, would it not?---Ah, yes, I suppose.

10 No further questions.

ASSISTANT COMMISSIONER: Thank you, Mr McGirr. Yes, is there anyone other than Mr Steirn who wants to examine this witness? Ms McGlinchey, if might be best if you - - -

MS McGLINCHEY: (not transcribable)

MR WATSON: (not transcribable) haven't got the transcript of yesterday's
20 evidence. At the time I left to come here this morning it still wasn't available - - -

ASSISTANT COMMISSIONER: Right.

MR WATSON: - - - which basically are (not transcribable) notes because we needed a transcript to be available.

ASSISTANT COMMISSIONER: Well, it normally is available at some time in the morning which I don't know - - -

30 MR WATSON: (not transcribable)

MR STEIRN: It's usually the same afternoon, Commissioner.

ASSISTANT COMMISSIONER: Yes, yes. All right. Well, look I, we'll look into that but I'm sorry, well, what are you saying? That you don't know whether you want to ask questions or not?

MR WATSON: I do want to questions but I'm just not in a position to
40 fairly put the questions to the witness in light of the evidence that was given in reference to them.

ASSISTANT COMMISSIONER: Well, haven't you got a transcript now?

MR WATSON: (not transcribable) as I said, I left this morning and (not transcribable)

ASSISTANT COMMISSIONER: Well, you could have asked for one during the day couldn't you? Surely it's available now?

MR WATSON: Your Honour, I haven't had an opportunity to look at it so -
- -

ASSISTANT COMMISSIONER: Well, we can't keep this witness hanging around forever. All right. Well, who, who is ready to proceed?

MR STEIRN: I'm ready, your Honour.

10 ASSISTANT COMMISSIONER: Would you prefer to go before Ms McGlinchey?

MR STEIRN: Certainly.

ASSISTANT COMMISSIONER: All right. We'll hear Mr Steirn.

MR STEIRN: Mr McCallum, I appear for Mr Neville Magi just so you understand?---Yes.

20 And the thrust of my questions will involve Mr Magi and Prosys in particular, do you understand?---Yes.

Just in relation to the topic raised by Mr McGirr, it's pretty clear now by reference to those emails that the site CAD plans were on foot somewhere prior to July 2008?---Yes.

And on behalf of the university you wanted those plans implemented, did you not?---Yes.

30 And it's clear is it not, as a matter of logic by reference to the emails that that must have taken place some time prior to July as you've said?---In, in, in what regard?

In regard to general discussions with Todd?---Oh, general, yeah.

Yeah?---I thought I'd said that twice.

Yes. I just want to bring you to the topic, do you understand?---Yes.

40 They're not trick questions. Okay. And you because of your position determined that Prosys was the contractor available to do the work because of their expertise, is that right?---Yes.

And you understood that Todd Anley on behalf of Prosys would do the work through your previous knowledge of him?---Yes.

Yeah. And you didn't expect that work to be done for nothing, did you?
---No.

No, it was properly paid work?---Yes.

And work which had to be done?---Yes.

And it's fair to say, is it not, that if you check your own records rather than check the records of the University there was no invoice in relation to any of that work sent to the University prior to November 2008, was there?---Well, I don't recall one.

10

No. And can I suggest to you on what you've told the Commission already there must have been work in progress carried out by Mr Todd Anley?
---Well, I said yes.

Over that period of time?---Yes.

Over some months, if you do the maths there must have been at least four to five months of work carried out from time to time by Prosys.

20

ASSISTANT COMMISSIONER: Well, I'm sorry, Mr Steirn, that doesn't follow at all. I mean, apart from what's in the email, you've seen that email about (not transcribable) being exchanged?---Yes, Commissioner, yes.

Do you know any more about what further work was done?---I, I don't recall from that point forward the, I got sidetracked on other things and I didn't follow it through so I can't - actually I remember on occasion speaking to, to Cameron Marshall about supplying discs, some information after that but as to the level and what stage it was up, was up to and flowing through I'm sorry, Commissioner, I just have, I just have a blank.

30

Yes. Thank you.

MS HUGHES: Commissioner, I just, my, my friend's question was based on the fact that if he had checked the invoices from the University, there's no suggestion that he has gone through and checked the invoices from the University and he's not being fair to this witness to be putting questions to him if it can't be based on the premise that if he had gone and checked all the invoices he could see that there wasn't one in relation to this particular work.

40

ASSISTANT COMMISSIONER: Yes. Well, I mean, yes, it does seem to me at this stage the witness hasn't - I mean, do you, do you - you're saying you don't recall any such invoice but I take it you haven't searched for such an invoice?---Oh, no, no, Commissioner.

All right.

MR STEIRN: I'll withdraw the question if your Honour pleases.

Do I take it from what you're telling the Commission that after your initial contact with Todd Anley you left the details with Mr Cameron Marshall on behalf of the University?---Ah, yes.

And do I take it that's really clear from the email correspondence between Mr Marshall and Mr Anley?---Ah, yes.

10 Yes. Might we have on the screen, Commissioner, an email dated 29 October, 2008, I think it's in schedule 2 of the documents.

ASSISTANT COMMISSIONER: Schedule 2 of which volume or - - -

MR STEIRN: That's the only reference we have.

MS WILLIAMS: MFI 1.

ASSISTANT COMMISSIONER: MFI 1. Oh, in that one.

20 MR STEIRN: MFI 1 is it?

ASSISTANT COMMISSIONER: Yes.

MS WILLIAMS: It's not available on the screen, Commissioner, but I will identify the page number. Page 16 of MFI 1, Commissioner.

ASSISTANT COMMISSIONER: Yes, can the witness be shown MFI 1 please?---Thank you.

30 MR STEIRN: Just read that to yourself for a moment, Mr McCallum and tell us when you've finished reading it please?---Ah, yes.

Yes. And just for the transcript it's obvious an email from Mr Cameron Marshall to, to Todd Anley, is that right?---Yes.

And it says in terms "Todd, try these and see how they go. I think the resolution is much better and the file size isn't too bad either." Do you see that?---Yes.

40 And does that tell you from what you know then and what you know now that Mr Marshall's in regular contact with Mr Anley in relation to these plans?---It would indicate that.

Right up until 29 October, 2008?---Yes.

Yes, thank you. Do I need to tender that?

ASSISTANT COMMISSIONER: Well, it's already - - -

MR STEIRN: It's already tendered.

ASSISTANT COMMISSIONER: It's MFI 1 and I presume it will be tendered.

MS WILLIAMS: I can indicate, Commissioner, that it will become part of Exhibit 9. We are having it paginated accordingly.

10 ASSISTANT COMMISSIONER: All right.

MR STEIRN: I'll take you to some other topics dealt with in the evidence. You said today in answer to a question by Counsel Assisting as to the knowledge and expertise of Prosys, you said these words Prosys had been by far the best in terms of the contractors you've used, is that right?---That's correct.

And why do you say that?---Just on their responsiveness, their, the quality of their technicians.

20

And is that based on your own observations?---No, there was, there was - certainly my own observations and others, other universities.

Yes. Would you tell the Commission in what way you gained knowledge as to their expertise in relation to what other universities thought of them? ---Well, at the Cardax user group meetings which we all, which were always held at another tertiary institution and people used to discuss who they'd been using and to the level of how effective they had been and how successful they had been.

30

So to do your job properly on behalf of your own university you needed to know this in terms of dealing with Prosys on a regular basis?---Yes.

Can I just deal with your personal position on behalf of the University in relation to your dealings with Prosys on a regular basis and I mean by that the assistance you gave them on behalf of the University and can I quote some examples. In relation to Todd Anley you knew that from time to time he would attend the New England University with his own lorry, with his own truck and equipment?---Yes.

40

And he would come equipped to do the job on a regular basis?---Yes.

Do you recall on some instances he didn't have a particular tool like a larger drill or a longer ladder or equipment of such sort?---Oh, I can't quote specifics. I am aware that the, there was occasions where the, the University workshops would assist.

And that's the point, you facilitated that didn't you?---Yes.

And you assisted Prosys to get the job done?---Yes.

Can you recall for example some sort of electronic locking device which they didn't have at the time and the University was able to supply it to get the job done?---Yes.

And at a later time Prosys reimbursed you with that particular part?---Yes.

10 And you saw as part of your job to assist Prosys to get the job done on behalf of the University in general terms?---Yes.

You know Mr Neville Magi don't you?---I do.

And you know him on a social basis?---Yes.

But more importantly you know him through your business dealings with Prosys. Is that right?---That's correct.

20 And he is a director of the company?---Yes.

And he would attend at the University from time to time with other project managers?---Yes.

And you would assist him by meeting him at the airport from time to time? ---Yes.

Unlike Todd Anley, he didn't drive up, he flew up?---That's correct.

30 And you would pick him up at the airport?---Yes.

Take him to his accommodation?---Yes.

Is that right?---Yes.

And take him back to the airport when he finished his jobs?---Yes.

And if he was there overnight you'd have a drink with him?---That's correct.

40

And sometimes have dinner with him?---That's correct.

And you'd discuss problems involving the University and Prosys?---Yes.

And do we take it that the drinks are at night and the dinner's at night almost always – not always but by and large dealt with matters in relation to your job?---Yes.

And how you'd get the job done better?---Yes.

And did you see it important – as being important to assist Mr Magi in that way?---Yes.

By lending tools to his people. Correct?---Yes.

Picking him up at the airport?---Yes.

10 And generally making yourself available when – on behalf of the University?---Yes.

And do I take it over those years there was many a problem solved over a drink or over dinner at night involving the University?---Yes.

Just by communication?---Yes.

Breaking bread together or having a drink?---Yes.

20 And did you see it was part of your role to maintain that sort of social business contact with both – with Prosys?---Yes.

And no doubt other contractors as you saw fit?---Yes.

The – at one stage you asked Mr Magi for a donation for the football club? ---Yes.

What was the football club?---New England Rugby Union.

30 And what was your association with it?---I was the Executive Officer.

And do I take it it wasn't just Prosys you asked from time to time various donations?---No. Yes.

Who else did you ask?---Well Quad – well not for actual donations, I talked about sponsorships.

40 Yes. And did you see that as a sound business proposition both for the rugby union club and also for Prosys?---Obviously there was, there was in Rugby Union there's influential people in business around town.

Yes. And just tell us in your own terms how you saw that as being of assistance to Prosys in furthering their business aims?---I thought it'd be beneficial in, in lifting their brand name in the region.

Yes. And you're unable to say because it's an intangible whether that worked or not?---That's correct.

But you – in fact at the time of the club, was it a dinner?---Yes.

And Mr Magi in fact attended didn't he?---That's correct.

Yes. And no doubt met with other people from the town?---Yes.

From the city. And what you hoped he would do, involve himself on behalf of Prosys?---Yes.

10 Could I ask you some questions about the gift of a bottle of wine. It's at transcript 107, Commissioner. And I'll just read what you said. Yes, at page 107 at line 35 or so, this question was put to you, "Do you recall one occasion when you received a rather expensive bottle of wine from Prosys, about \$160 a bottle of wine as a Christmas gift"?---Yes.

And you said yes to that?---Yes.

Did you solicit that gift?---I could have. I don't, I don't recall specifically but I could have.

20 You didn't expect it though did you?---No.

And you didn't ask for it did you?---No.

No. In fact you were appreciative of it because you sent an email did you not thanking Mr Magi for the bottle of wine. Is that right?---I - my memory's not that good but if - - -

30 All right. Can we have that up on the screen if we can? It's volume 9, page 44. And that's your way of saying thank you?---Yes.

And did you know, I'll withdraw that. Did you ask for a bottle - you said you didn't ask for a bottle of wine therefore you didn't know the price of it?---Not at that time, no.

No. And you didn't know the brand even did you?---No.

And can I refresh your memory that the way the gift was sent to you and others from the University was in a presentation bag, a sports bag?---Yes.

40 With the Prosys signage on the side by way of a promotion?---Yes.

And the first time you became aware it was \$160 a bottle was when the question was put to you by Counsel Assisting?---I think I might have seen it in the bottle shop in between then and the - - -

But you certainly didn't solicit the gift did you?---No.

And did you understand that was firstly a Christmas gift by the company?

---Yes.

And in a sense saying thank you for the assistance you'd given Prosys, especially Mr Magi on a personal basis?---Yes.

And the assistance you'd given his employees over a number of years?
---Yes.

And you saw nothing wrong in that?---No.

10

And is it also the position that Mr Magi gave a presentation bag and alcohol to a Mr McCallum, to Mr Quinlan?---They were sent up.

Pardon?---They were sent up. There was a group of stuff came, I distributed the stuff around.

Yes. Might we go to volume 9, page 45. Just read, can you read that?
---Yep.

20

How did that email come about?---I would have been given Mike and Graham the – what Nev had sent up.

Pardon?---I would have – everything came in the one box, I distributed them, is my recollection.

And again by way of saying thank you?---Yes.

It's both good manners and good etiquette to do so?---Yes.

30

ASSISTANT COMMISSIONER: And it breaches the Code of Conduct of the University?---Yes.

I mean, you've just accepted that you saw nothing wrong with this?---Yes.

In your earlier evidence you've accepted that you did realise now that it was totally wrong for someone managing a contract like you to accept expensive gifts?---Yes.

40

You do realise that don't you?---Yes.

Yes. Sorry Mr Steirn, but I mean it's really no point in my view, in getting him to go along with a proposition like that when all of his earlier evidence is against it. And in fact the, the rules and regulations of the University are against it. So - - -

MR STEIRN: The point about this is it's not Mr McCallum I'm concerned about, it's his evidence that he did in fact assist Mr Magi and other people from Prosys over the years and Mr Magi, from his own point of view took it

upon himself to make sure that Mr McCallum received a gift. It's a matter for Mr McCallum how he deals with it under his Code of Conduct. But certainly there's nothing sinister in what Mr Magi did given the evidence by Mr McCallum that he did in fact extend assistance in a tangible way over some years.

ASSISTANT COMMISSIONER: Yes. Well, I think that evidence is best extracted from Mr Magi, not from this witness.

10 MR STEIRN: Except to confirm what Mr Magi's going to say when he gives evidence.

ASSISTANT COMMISSIONER: Well, I don't know that he can say much about what was in Mr Magi's mind when he gave the gift.

MR STEIRN: Well, that hasn't been a problem before at this inquiry. Yes, thank you. That completes my questions.

ASSISTANT COMMISSIONER: Thank you, Mr Steirn. Ms McGlinchey?
20

MS McGLINCHEY: Thank you, Commissioner. Mr McCallum, I represent Mr Munro in these proceedings?---Yes.

You answered some questions this morning about the personal performance review system- -?---Yes.

- - -and the reviews that you undertook at FMS?---Yes.

30 Would you agree with me that generally these reviews were undertaken annually?---Yes.

And that they were undertaken generally around March- -?---Yes.

- - -of each year? And would it be correct to describe the process as one where the employee would sit down with a supervisor and review the previous year?---Yes.

And plan for the future of the year coming up?---Yes.

40 Do you recall if you undertook a review with a supervisor in early 2009?
---No, I didn't.

And that you were in fact in Audit by March 2009 is correct?---That's correct.

So from early March Mr Munro was not your supervisor?---That's correct.

Do you recall undertaking a review with Mr Munro for 2010?---Yes.

And do you recall that you were able to undertake part of the process, being the planning part of the process?---That's correct.

Do you also recall that you were not able to undertake the review part of the process?---That's correct.

And that is because you were not, Mr Munro wasn't supervising you in 2009- - -?---That's correct.

10

- - -because you were mainly in Audit?---Yes.

Thank you. You've answered some questions about your role as the CEO of New England Rugby Union Club?---Executive officer, yes.

And the various councils and that you've given evidence that that was a paid role?---I received an allowance, yes.

And you received some commissions as well?---Yes.

20

Do you agree that you didn't tell Mr Munro that that was in fact a paid role? ---That's correct.

ASSISTANT COMMISSIONER: Thank you.

MR WATSON: (not transcribable) I was hoping to have the opportunity to see the transcript before (not transcribable)

30

ASSISTANT COMMISSIONER: Yes. Well, I don't really want Mr McCallum to have to come back.

MR WATSON: See how I go then.

ASSISTANT COMMISSIONER: Yes, we'll see how you go. So you're representing Quad, is it?

MR WATSON: Quad.

40

ASSISTANT COMMISSIONER: Yes. All right.

MR WATSON: Mr McCallum, can I take you back to the first tender, 2004/16. The material that we've been provided with indicates that Frank Seibert was the person who put together that tender and presumably the person with whom you were dealing. Is that right?---That's correct.

You did not meet either Mr Yardley or Dobrilla Cutler until I think early in 2005?---Well, yes, certainly he was the original contact.

When the initial tender was approved, it was approved by a process which involved I think first of all Mr Dunn and Mr Williams recommending the approval of the tender?---The, the, there was a process, and I won't try and recall what the University's procurement process was in 2004, but certainly FMS submitted a recommendation that went to Finance that then went to, I would say then the, I forget the title, the, is now the (not transcribable) but wasn't called the (not transcribable) and then it got sent to a tender committee.

10 Right. And ultimately after it was signed off on by Mr Dunn, Mr Williams and presumably yourself, it then went on to the Vice Chancellor and others for- - -?---Well, I guess- - -

- - -for their, ultimately- - -?---No, no, it goes to a tender committee.

But ultimately it goes to the Vice Chancellor to sign off on, doesn't it?
---No, it goes to a tender committee.

20 But ultimately?---Back in those days it used to go to a tender committee.

Well, I'll suggest to you that amongst the documents that we've been provided with there is a document dated, the document's dated 11 and 12 January, 2005, which appear to be signed off on by Mr Dunn, Mr Williams, the Vice Chancellor and others, who presumably comprised that committee or those committees?---Yes. Well, the Vice Chancellor was on the tender committee, I can't tell you who else was.

30 The point I'm seeking to make is that effectively the approval of that tender had taken place by 12 January?---Yes.

And when you met with Mr Yardley on 5 February, that was about a month after the tender, the first tender had been approved by the University?---Yes.

And do you recall whether Mr Yardley came up to Armidale for the purposes of effectively some signing off on some formalities at that time?
---Yes.

40 So in effect it was a done deal by that stage, well and truly a done deal?
---Yes.

And the dinner that took place on 5 February was a dinner attended by not only yourself I think but by others associated with the University, particularly Mr Quinlan?---I think we had lunch after signing the contract is my recollection.

Lunch, I apologise. In any event, when the initial tender by Quad Services was provided, you're aware that there was a suggestion made by Quad that it could reduce the tender by two means, by allowance of \$40,000 for staff

not required during vacation periods and \$12,000 if they weren't required to provide a vehicle?---Yes.

And in fact those reductions were made to the ultimate tender price as approved. Is that right?---Yes.

10 When, now, the vehicle that was made available at that stage was a vehicle which was the subject of a lease that commenced I think in 2005 and had a five-year term to run?---Well, I can't, I, I don't know when the lease of the vehicle started. It was the, it was the lease of the vehicle that was currently in place in our cleaning section, but to tell you- - -

Do you not recall that in I think about September 2006 you gave some evidence I think which the University was closing down the cleaning section?---Yes.

Right. And part and parcel of that exercise was to look at whether or not it could dispose of assets in that section, being the vehicle?---Well, well, yes.

20 Yes. Do you recall that after some inquiries made by FMS I think it was determined that if the vehicle were to be, the lease could be terminated it involved a payout of about \$23,000?---I can't remember the exact figure, but there was, it was an excessive cost for us to break that lease.

And there was a concern I suggest expressed by you at that time that if that were to occur the vehicle, and the vehicle sent off to auction, there could be 8 to \$10,000 shortfall for the University?---That was, I recall, yes.

30 I'm going to suggest to you that that was a factor that was operating in your mind when you approached Dobrilla Cutler with the suggestion that Quad might take over the lease?---Yes, yes.

It was a way of effectively saving the University from the potential loss that it might incur if it were to terminate the lease?---Yes.

40 So I think you've been present in the room when you've heard the suggestion made to Ms Cutler that she would have appreciated that this was, that her actions were in the nature of asking you to provide a favour to Quad?

MS WILLIAMS: I object. I didn't suggest to Ms Cutler that she asked Mr McCallum to provide the favour.

MR WATSON: Apologise and withdraw the question.

MS WILLIAMS: I did put that Mr McCallum put that proposal.

MR WATSON: What I suggest to you, Mr McCallum, is that far from there being any perception that there was a favour being done by you on behalf of the University of New England, the reality was that if there was any favour involved it was a favour going in the other direction, namely that Quad Services was alleviating the potential problem for the University because it was saving it the possibility of incurring a loss of 8 to \$10,000?---That was one of the reasons, yes.

10 Had the Quad insisted on, or had Quad provided a vehicle as originally envisaged in this first tender, it had indicated to the University that it would be charging for that?---That's correct.

Charing it estimated about \$12,000 per annum?---Yes.

Right. If this arrangement that was entered into in early 2007 was undertaken, it was within the contemplation of the tender arrangements that any vehicle costs to Quad would be passed on to the University?---(not transcribable)

20 Well, it was treated as a variation to reflect the original intention, I suggest? ---Can you, sorry, I'm trying to, could you repeat the question, please.

I suggest to you that the original tender included the prospect of a charge by Quad \$12,000 if it supplied a vehicle?---Yes.

When initially for the first couple of years up until early 2007 the vehicle was in fact made available by the University at no charge to Quad?---Yes.

30 And that position changed when the University started to look at the question of disposing of the vehicle and alternatives?---Well, when we closed down our cleaning section, yes.

Cleaning section. Right. In order to pass on the cost without disposing of the vehicle and incurring that loss - - -?---Yes.

- - - Quad was in a position where it was going to be invoiced by the University?---Yes.

40 And consistent with the original tender proposal, if that was an additional cost to Quad it would pass it back to the University?---No, I wouldn't view it that way.

How would you view it?---Well, because it was taken out of the tender assessment and I believe that my thought process would've been that that option wasn't available.

But you treated you – you viewed it as simply a variation of the contract when the arrangements were discussed with Dobrilla Cutler in February?

---Yes.

In relation to the dinner which took place at the French restaurant in November 2008 - - -?---Yes.

- - - do you recall that you received an email in October from Dobrilla Cutler indicating that Mr Yardley had mentioned that he'd like to have a dinner with you and Mr Quinlan in November?---I don't recall the email but I remember being aware that Andrew was coming up.

10

Right. And he came up I think during the period of the relationship between Quad Services and the University about five times I suggest?---I can't remember the number of times but, yes.

Would that be consistent with what - - -?---Yeah, five, five years for the – seems (not transcribable).

Give or take?---Yeah.

20

One of the things that were discussed between you and Mr Yardley, I suggest, from time to time was whether the performance by Quad Services was such that UNE would be prepared to provide a favourable recommendation, reference if you like, to any other potential tenderers that – sorry, tender callers that Quad might be interested in tendering to? ---Yes.

Is that a common practice that existing businesses seek some confirmation of the performance from - - -?---Most long term - - -

30

- - - their clients?---Most long term contractors ask if they're bidding for work whether you'd be prepared to be a referee.

There's nothing of a particularly unusually favourable nature in that, it's simply you're being asked to pass on your observations?---That's correct.

I think on each of the occasions that you had dinner with Mr Yardley there were other persons present either Ms Cutler, Mr Turner, Mr Quinlan?---It varied, it wasn't - - -

40

Yes, thank you, I have nothing more.

ASSISTANT COMMISSIONER: Thank you, Mr Watson. All right. Well, do I take it that – do you have any re-examination?

MS WILLIAMS: Just two very small matters, Commissioner. Mr McCallum, you were asked some questions by Mr Steirn on behalf of Mr Magi about some dinners you had with Mr Magi whilst he was in Armidale on Prosys business, correct?---Yes.

Who paid for the dinners on those occasions?---Prosys, Mr Magi.

And irrespective of whether business was discussed at those dinners you understood, didn't you, that it was contrary to the University's Code of Conduct for you to accept that hospitality at Prosys's expense?---Yes.

Did you disclose those dinners to your supervisor at the time?---No, I didn't.

10 You were asked some further questions by Mr Watson in relation to the arrangements with Quad about the vehicle lease and the on-charging of those costs?---Yes.

Isn't it the case that in February 2007 there were several options available to the University in respect of the vehicle, one was to break the lease and to wear the cost of that whatever it may be, correct?---Yes, yes.

Another was to simply continue paying the lease and letting Quad use the vehicle, correct?---Yes.

20

And the third option being the one the University selected was to require Quad to pay for the vehicle lease costs, correct?---You use those terminologies but my recollection is I instructed the motor pool to invoice Quad Services. You say the University but my recollection is that the instructions to the motor pool with the vehicle came from me.

And why did you give the motor pool those instructions?---I think I just – I didn't – I think I previously answered it in the fact that I thought it was the best option for the University and I viewed it as a variation.

30

It was the best option for the University because it avoided the break costs? ---Yes.

But why was it to the Universities advantage for Quad to pay the lease costs and then invoice the University for those amounts plus five per cent, why was that a good option for the University?---Well, for them to take up their own vehicle which they would've required would've been more expensive.

40 Why was it not a better option for them to continue to use the vehicle paid for by the University?---It was just the decision I made at the time.

ASSISTANT COMMISSIONER: Yes, but it ended up costing the University money didn't it, the five per cent admin cost if nothing else? ---Yes.

You could've just continued the lease and let them use it?---Yes.

MS WILLIAMS: Do you say that nobody else within FMS or at the motor pool required you to arrange for the cost to be passed on to Quad?---Sorry, I don't get the question.

Right. Do you say that the University motor pool passed the lease costs on to Quad - - -?---Yes.

- - - solely because of your instruction?---I believe so, yes.

- 10 So far as you're aware there was no decision by the motor pool staff or FMS that those costs should be passed on to Quad?---No, I think it was something that I – my recollection is that it was something handled by myself.

And your evidence is that the paperwork that generated by the invoicing and re-invoicing and adding five per cent all came about because you decided that's how things should be done?---Yes.

Thank you, Commissioner, I have nothing further for Mr McCallum.

- 20 ASSISTANT COMMISSIONER: Thank you. Yes, well, thank you for that, Mr McCallum, I believe you can now be excused - - -?---Thank you, Commissioner.

- - - from further attendance. Thank you. And we'll recall Ms Cutler.

<THE WITNESS EXCUSED

[3.37pm]

THE WITNESS: Is this mine?

MS WILLIAMS: No, perhaps if that could be handed back but I will at the same time ask for you to be provided with this document and I hand up a second copy for the Commissioner. Ms Cutler, this is a copy of the document I was asking you about commencing at page 437 of volume 1 - -
10 -?---That's better.

- - - but you will see that the copy is clearer?---Yeah.

Before you were temporarily stood down I was asking you in particular about the section under the heading If Site Tenders Are Being Called JRP5 that appears at page 40 and page 41, if you could take a moment to just read that section of the document please?---Yes.

Right. Having read that section do you now have any recollection as to
20 whether or not you completed this form?---No.

Do you recall completing the section that you've just read at pages 40 to 41?---No.

Do you recall providing anybody at Quad Services with information to the effect set out in the answers in red at pages 40 to 41?---No.

So far as you can recall did you have any understanding that in the cleaning contract to be let by the University at the end of December 2009 there
30 would be additional services included?---No.

Ms Cutler, I am instructed that this document was located by the Commission on your computer. Does that indicate one way or the other whether you were likely to have had some role in preparing the document? ---No, it doesn't. It, you know, we, we have a lot of meetings in Sydney, it might have been something that was emailed to me. I don't recall filling in this document. I do recall seeing the document not filled in but I don't, I, I do not recall adding in these, the wording.

40 Do you recall apart from today seeing the document in its completed form that you see now?---Not in the completed form, no, but certainly as I said at the beginning I have seen this document but not in the completed form.

Do you see the question and answer at paragraph (x) under the JRP 5 heading, Is our contract, sorry, "Is our contact the decision-maker" do you see that?---Ah, what page was that, sorry?

Sorry, page 440?---40, yes.

And do you see the response in red?---Yeah.

“Organised tender committee will decide but this may change in the next seven days”?---Mmm, yes, I can see that.

On 11 December, 2009, which is the date of this document, do you recall whether you had any knowledge of the decision-making process that UNE were going to adopt in relation to - - -?---On what date, sorry?

10

I’m asking you about - all these questions I’m directing to you are about your knowledge and understanding as at 11 December, 2009?---2009.

And I’m asking you about that date because that’s the date that appears on page 437, the first page of this document. Do you see that date against the description “date JPR raised” in the second line under the heading “Information on hand”?---Right, yeah.

20

So as at 11 December, 2009 and I suggest to you that’s about a week before the Request for Tender was issued, did you have any understanding about the decision-making process that the University would adopt to decide how to award the tender?---I don’t know, I don’t recall having that, that sort of knowledge.

Can I direct your attention to the very last question and answer on page 440?---40. Yes.

30

As at 11 December, 2009 did you have any knowledge of what would be added to the forthcoming tender document which you considered other companies would not have?---The only knowledge that I would have had is being the incumbent for the previous years and knowing the hours and knowing the buildings and knowing the, the knowledge of knowing how we clean the site. I would have that knowledge. We were at that site from 2005.

Can you look at the first question and answer at the top of page 441 please and do you see there the answer says “the incumbent does not want change”, do you see those words in that answer?---On 441?

40

Yes?---And at the top?

Yes?---If our client is the decision-maker?

Yes, I’m asking you about the words in red?---Yeah. It’s - - -

It’s the letter Y which stands for yes, doesn’t it?---Yes.

So that's yes, we can negotiate if our price is too high and then I'm asking you about the words "as the incumbent does not want change"?---Well, we were the incumbent.

All right. Obviously enough you didn't want change, Quad Services wanted to keep the work but - - -?---Yeah.

10 - - - I'd suggest to you that the person who completed the answer was referring to Mr McCallum as the incumbent?---I can't answer that because I don't know who completed this document.

Well, that's fair enough but did you as at 11 December, 2009 have a view one way or the other as to whether or not Mr McCallum wanted any change to the cleaning contract arrangements?---No, no.

You just didn't know?---I just didn't know, no.

Had you made it your business to try and find out it was - - -?---No.

20 Wasn't it part of your job to do whatever could be done to try and retain this work for Quad Services?---My, my job was to retain the work but it was to retain the work with the standard that we were providing and obviously the business relationship that we had with our client.

Do you see in that same section on page 441 there's a series of questions all within a subparagraph (xiv) which starts, "Who does this tender for Quad", do you see that section?---Yes.

30 I'll ask you to go down to subparagraph (iv) which starts "What information do we know as incumbents"?---Yes.

Do you see that? And the answer in red which indicates "frequency and labour for new requirements"?---Yeah.

40 As at 11 December 2009 did you have any knowledge about frequency and labour fee for any new requirements that you thought would Quad Services the edge in tendering for the new contract?---No, no. I, I think what it's saying is the frequency and labour for new requirements and they would have been probably areas that were already, that had already come in to the contract not any new ones that are coming on.

All right. As the general manager for Quad Services in the region which included the University of New England you had the principal bottom line on responsibility, didn't you, for making sure that Quad Services fulfilled its obligations under the cleaning contract, correct?---Yes.

And did everything possible to retain the work when the contract was put up for tender again, correct?---Yes.

Who - I withdraw that. You say you didn't prepare this document, correct?
---I, as I said, I have seen it in the blank form, I have not seen it filled in like this.

No, I'm asking you about the document as completed in this form. You say you did not prepare these responses in red?---No, no.

10 And you say that - well, I withdraw that. It's obvious enough that somebody has prepared the responses from Quad Services, correct?---Yes.

And do you say that person did not show you this document at the time, 11 December, 2009?---I do not recall seeing it before now.

20 Can you think of any staff member of Quad Services as at December 2009 who would be likely to have carried out the assessment that's reflected in this document?---No, I mean, the information might have come from, from various sources, I mean obviously we, we have a PR department that rings and, and gathers information on, on how our standard's going up at the site and whether the client is happy with our, our business there. I mean, it could have come from a number of areas.

Anybody with - sorry, Commissioner.

30 ASSISTANT COMMISSIONER: That's not really the sort of information that's in here. It's information about how often the client's being entertained, how happy he is with everything, when was he last entertained, how is the tender going to change, thinking about that, who within Quad do you think could put in these answers?---Well, well, I mean obviously I would certainly have this sort of information but maybe I don't know, Andrew Yardley might have had this information, it might have been our, our contracts manager that, that had this sort of information as well. I, I do not recall filling in this document. I don't recall seeing it as its filled out but I do recall seeing the document not filled out.

Have you ever filled in one of these documents?---I don't recall ever having filled in one of these documents.

40 Yes, yes thank you Ms Williams.

MS WILLIAMS: Commissioner, I tender pages 437-446 of volume one and ask that they be included within Exhibit 1.

ASSISTANT COMMISSIONER: Yes, well pages 437-446 will be incorporated in Exhibit 1.

MS WILLIAMS: Ms Cutler, do you recall going to dinner with Mr Yardley and Mr McCallum on 17 December, 2009?---Yes.

And I want to suggest to you that that was the same date on which the request for tender was issued?---I don't know if that was the same day that the tender was issued. I know that Andrew – I recall each time that Andrew came up to Armidale.

Do you recall suggesting that Mr Yardley should come and arrange a visit or a dinner with Mr McCallum at around that time?---Yes. Yes.

10 And was the reason that you suggested that because of the forthcoming tender for the new cleaning contract?---No. I believe it was because it was around the Christmas period.

Right. But the reason you were suggesting that Mr Yardley should have a Christmas dinner with yourself and Mr McCallum was because of the forthcoming cleaning contract dinner and Quad's interest in retaining the cleaning work at the University wasn't it?---I mean Mr, Mr Yardley came up twice a year for several years.

20 All right. And we went through - - -?---So it wasn't just at that particular point in the year.

I don't want to go over what we went through earlier, but the reason Mr Yardley had dinner with Mr McCallum once or twice a year was to maintain the close business relationship between Quad Services and Mr McCallum. That's right?---The close business relationship, yes.

All right. And you say do you that the dinner in December 2009 was for that same general purpose. Correct?---Yes.

30 And what I'm suggesting to you is that one of the things that would have – I'll withdraw that. I'm suggesting to you is that at that time a key issue in that business relationship from Quad Services point of view was the fact that the cleaning work was about to be the subject of a new request for tender. Correct?---Possibly yes.

40 What was your role in subsequently preparing Quad's tender for the cleaning work that was submitted in January 2010?---Basically the operational portion of the tender document, which would have entailed hours, equipment required to do the, the cleaning on the side. And that was in consultation with Bill Turner and David Chaloub actually came up the estimate of the company and we were able to discuss it and prepare the spreadsheet.

Did Mr Turner calculate the hours and you reviewed them or was it more of a collaborative effort between the two of you?---Well the hours were there from the beginning of the contract prior to, to myself starting with Quad. And basically over that period of time obviously we were able to make sure

that the hours that we had to clean each area was sufficient. So when this tender came around the second time, yes, it was easier to put those hours down as what we would require to maintain the standard on that site.

All right. Now when you say the hours were already there, do I understand from that that they were documented?---They were documented from the first tender which Frank Seibert would have put together.

10 All right. And had those hours been updated or (not transcribable) from time to time during the period of the first contract?---Yes. During the period there was some buildings that were closed down and not required for cleaning, so obviously there was a reduction, so a variation had gone through. And some other areas where there might have been a need for additional hours. But by the time the second tender come around we were pretty confident that the hours that we had there was to maintain the standard that we had up until that point.

20 All right. I'll ask you to turn, please to page 114 in volume 1 which you have in front of you?---No - - -

Oh I'm sorry, you don't have volume 1?---No.

You've been given (not transcribable). Could Ms Cutler be provided with volume 1, please at page 114. And those additional pages might be handed back?---Yep.

Do you recall seeing the document at page 114 and 115 previously?---No. Oh, yesterday.

30 Yesterday hearing evidence in the inquiry?---Yeah. Yeah, other than that I haven't seen this.

Is it the case that you have so far heard the evidence given by the other witnesses to this inquiry?---No, the fact is that I hadn't seen this document before yesterday.

I understand that. I'll just proceed.

40 ASSISTANT COMMISSIONER: You have heard the evidence given by other witnesses about the hours?---Yeah, sorry. Yes, yes.

And the similarity between the hours. It might just make things a bit more quicker?---Yep.

Yes.

MS WILLIAMS: Yes. You've heard the questions I've asked of Mr McCallum - - -?---Yeah.

- - - and Mr Turner about the similarity between these benchmark hours prepared by the University at pages 114-115?---Ah hmm.

And the hours that appear in Quad's tender submission. Correct?---Yes.

10 Do you have any explanation – I'll withdraw that. Do you regard the similarities in those figures that I've put to the other witnesses as extraordinary? Sorry, before you answer let me put that a better way. Do you regard it as extraordinary that some, for some six buildings the University came up with exactly the same benchmark hours per week as Quad Services specified per week in its tender submission?---I don't really in the fact that Rochelle Slade that works for FMS as the UNE Cleaning Supervisor used to be the night supervisor for Quad. So in that role as a night supervisor, she obviously would have known what hours were required for cleaning in the individual areas. And she was in that position for a couple of years.

20 All right. Is it the case that at the time Quad submitted its tender in January 2010 the Bellevue Grandstand was fairly recently constructed?---Yes.

And Quad did not have a long period of experience in cleaning that facility. That's right isn't it?---No. The understanding I've got is that we were asked to do some extra cleaning because of the building works that were going on. And I think on a couple of occasions we were asked, yeah, to clean it. But it was predominantly after all the building works were finished.

30 All right. It was more difficult to estimate the number of hours per week for that particular facility than for other facilities when doing Quad's tender wasn't it?---Yes. Yes.

And there was no figure from the previous contract because the facility hadn't then been constructed. Correct?---That's, that's correct.

And the facility had been completed after Ms Slade ceased working for Quad Services. Correct?---Yes, that's right.

40 Bearing those matters in mind do you accept that it's an extraordinary coincidence that the figure of hours per week for the Bellevue Sports Grandstand would be exactly the same between the University's benchmarks and Quad Services tender?---Yes.

Do you have any explanation as to how those figures or as to why those figures are the same?---I don't have any explanation other than Bill had told me how many hours that we would require to clean that grandstand.

All right. So Bill came up with the figure of 18.23 hours a week did he?

---Well he was there with the cleaners so he was able to see what, what type of cleaning tasks would need to be performed, how long it took on the couple of occasions that we did clean the grandstand and he would have come up with the figures that he thought would be required to clean that particular area.

10 Right. Thank you. Do you recall that after Quad submitted this tender there was a series of, I withdraw that. There was an interview that you and Mr Yardley I think attended on behalf of Quad with the University tender panel?---Yes, that's correct.

I want to suggest to you that was in about early March 2010?---Oh, yeah.

And did you after that period look to Mr McCallum for information as to what was happening about a decision on that tender?---I don't recall asking him, no.

20 Did Mr McCallum give you any information about what was happening with that tender?---I think his words to me were that he wasn't able to discuss it.

Right. And in any event, that tender was cancelled. Correct?---That's right.

And Quad Services continued to perform work?---That's, yeah.

And a fresh tender process was started in about July or August 2010. Do you recall that?---Yeah, probably around that time, yes.

30 And did you and Mr Yardley take Mr McCallum out to dinner in July 2010 just before that process started, do you recall that?---I can't recall the exact date but if, if you're saying that's the day, I mean, you would have probably got the information there. I can't recall the exact date, no.

All right. Do you recall an occasion having dinner with Mr McCallum and Mr Yardley shortly before that new tender process started?---As I said, I recall that on, over the years that Andrew always came up to Armidale two days, twice a year. As to the dates, I couldn't tell you.

40 All right. Thank you?---I would have to go back and check.

Commissioner, I have no further questions for Ms Cutler.

ASSISTANT COMMISSIONER: Yes. I was just wondering, is it, would it be possible to finish Ms Cutler? Who, who if anybody will be seeking to examine Ms Cutler? Nobody? That's good. All right. Well, it appears that you can be excused, Ms Cutler. Nobody else is seeking to question you.

MR MADDEN: Is she released from her summons?

ASSISTANT COMMISSIONER: Yes, she is discharged from further attendance.

THE WITNESS EXCUSED

[4.02pm]

10 ASSISTANT COMMISSIONER: And we will resume at 10 o'clock tomorrow morning.

AT 4.02 PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.02pm]