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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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AT SYDNEY

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AT 10.05 AM

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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.

MS WILLIAMS: Yes, thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes, Ms Williams.

MS WILLIAMS: Commissioner, may I begin this morning by tendering the documents that were marked - - -

10 ASSISTANT COMMISSIONER: I'm sorry, I think your friend - - -

MR MADDEN: I did speak - - -

MS WILLIAMS: Sorry, I'll let my learned friend (not transcribable).

MR MADDEN: Commissioner, it's only a very minor matter and I've spoken to Counsel Assisting, at the bottom of page 183 the transcript says when I objected to a question – well, “The question would desist”, I think what I said was, “The question would suggest” and then Counsel Assisting perhaps spoke over me while I was speaking but the way that reads suggest I was perhaps being a bit rude in telling your Counsel that she should stop, I would not say that, at least I'm on the record.

ASSISTANT COMMISSIONER: Yes, I'm sure that's true.

MR MADDEN: Thank you.

ASSISTANT COMMISSIONER: Well, that's noted.

30 MS WILLIAMS: He may have thought it, Commissioner, but I agree with the amendment that's proposed.

ASSISTANT COMMISSIONER: Even we can't access the thoughts at this stage.

MS WILLIAMS: No, Commissioner.

ASSISTANT COMMISSIONER: Yes, Ms Williams.

40 MS WILLIAMS: May I then tender the pages that have been marked as MFI 1, they have been renumbered so that page 1 is page 139 and the final page is page 168. Might they become part of Exhibit 9 please, Commissioner.

ASSISTANT COMMISSIONER: Yes, well, the bundle of documents previously marked MFI 1 will become part of Exhibit 9.

**#EXHIBIT 9 - BUNDLE OF DOCUMENTS PREVIOUSLY MARKED MFL1 WILL BECOME PART OF EXHIBIT 9**

MS WILLIAMS: A copy has been provided to your Associate and I have a copy available for – although he's left now – for Mr Magi's Counsel. If any other representative wishes a hardcopy if they could let us know. And I then call Rochelle Slade, Commissioner, if that's convenient.

10 ASSISTANT COMMISSIONER: Yes.

MR LEWIS: Commissioner, Mr Posevic was given authorisation to represent this witness, he can't be here today and I'm seeking your leave to appear for Ms Slade.

ASSISTANT COMMISSIONER: Yes.

MR LEWIS: Lewis is my name.

20 ASSISTANT COMMISSIONER: Thank you, Mr Lewis. Yes, please come forward, Ms Slade. Yes, have a seat. Yes, now, Ms Slade, you've been called here to give evidence, you are required to answer truthfully all of the questions asked of you. Mr Lewis, is she seeking a declaration?

MR LEWIS: Yes, Commissioner.

30 ASSISTANT COMMISSIONER: Thank you. Yes. Now, your Counsel's indicated that you intend to seek a declaration under section 38 of our Act. The effect of that declaration is that nothing you say can be used against you in any future civil, criminal or disciplinary proceedings except if it's found that you've breached our Act by providing false or misleading information or in some other way. Do you understand the effect of that order?

MS SLADE: Yes.

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

**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 HER DURING THE**

**COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

10 ASSISTANT COMMISSIONER: Ms Slade, you are required to take an oath on the Bible or make an affirmation. Do you have a preference?

MS SLADE: (not transcribable).

ASSISTANT COMMISSIONER: I beg your pardon?

MS SLADE: I'm not worried which one.

ASSISTANT COMMISSIONER: Okay. Are you religious at all?

20 MS SLADE: No, not really.

ASSISTANT COMMISSIONER: Maybe an affirmation please.

ASSISTANT COMMISSIONER: Yes, thank you. Yes, Ms Williams.

MS WILLIAMS: Ms Slade, just for the record could you state your full name and address please?---Yeah. Rochelle Lea Slade. XXXXX.

10 Thank you. And you've made a statement to the Commission in the course of its investigation of this matter haven't you?---Yes.

Commissioner, Ms Slade's statement is found at pages 95 to 130 of volume 1 and I tender those pages and ask that they be included in Exhibit 1.

ASSISTANT COMMISSIONER: Yes. Well, pages 95 to 130 of volume 1 will be included in Exhibit 1.

20 **#EXHIBIT 1 - PAGES 95-130 OF VOLUME 1 WILL BE INCLUDED IN EXHIBIT 1**

MS WILLIAMS: Thank you, Commissioner. Ms Slade, I don't want to go over all the matters you've already addressed in your statement but just to set the scene you were the University of New England's Campus Services Officer from about May 2009. Is that correct?---Yes.

And you remain in that position at this stage?---Yes.

30 And immediately before commencing that role you were working with Quad Services. Is that right?---Yes.

And for Quad Services you were supervising the night cleaning work at the University. Is that correct?---Yes.

I want to ask you about your, some further questions about your role in the preparation, in the assessment of tenders by the University for a cleaning contract at the end of 2009 and early 2010?---Yep.

40 Do you remember that was a tender given a number 2009/33? Does that sound familiar?---Yes.

Right. And you had the role in that process of preparing some benchmark figures - - -?---Yes.

- - - for the hours per week that it would take to clean particular buildings. That's correct?---Yes.

Do you remember at what point in time you were asked to undertake that task?---No, sorry.

All right. Could you assume for me that the University's request for tender was issued on 17 December, 2009, if you just make that assumption?

---Okay.

10 Do you remember whether it was before or after the request for tender was issued that you were asked to prepare the benchmark hours?---I think, I'm unsure, like before I think or, I'm unsure.

All right?---Sorry.

When you were preparing the benchmark hours you had some information available to you from your work with Quad Services. Is that correct?---Yes.

You knew from that work how long it took Quad Services cleaners to clean the various buildings. Correct?---Yes.

20 And was that information that you had in your head or did you have it in some document or otherwise recorded?---That information that I had was from working, I had cleaned every single building at that University, so that was from experience. And also I did carry a little black book with me which was just, you know, where I recorded some hours because I tried to make myself like a record each night with my cleaning, because I consider myself a very good cleaner, so and also if I had, like because of my supervision job, if I had cleaners that, there was some cleaners I should say that would try and play that they couldn't finish the building in that particular time, but I had, but I had cleaned, cleaned it and made sure that  
30 they couldn't play on that, like I would go through it with them, with the cleaning and then they couldn't play on it any more, like trying to drag out the time to get overtime.

So is this the position you had in effect a personal record that you had created during your time working for Quad Services. Is that right?---Yeah.

And that - - ?---And, sorry.

40 Sorry, please finish?---Yeah. I'd also worked with Bill Turner on some hours, that we both sat down together and he done up a spreadsheet. I think, don't quote me on it, but I think it was for Quad Services, they'd asked him to do an update of the hours. So Bill Turner and I had worked with the hours too, so - - -

All right?--- - - - with Quad, which I had mentioned to Colin McCallum and I'm pretty sure I mentioned it to Brian Munro as well. So they were all aware of that and I think that's why Col had me sign that, declaring that, the form declaring that.

Yes, you signed a conflict of interest declaration?---Yeah, yeah.

That's right isn't it?---Yes. Yes.

When was it that you worked with Mr Turner on the hours?---2008, I'm pretty sure.

10 And at that stage were you both employed by Quad Services?---Yes, I was. Yes.

And could you just describe briefly for the Commission what that work involved? The work that you did with Mr Turner on the hours in 2008? ---Just working out for each building the hours required for each building. Some buildings were like more hours were added and some were taken away. There was also some buildings that were not there any more, that were demolished, so things were adjusted.

20 ASSISTANT COMMISSIONER: Where were these hours recorded? ---Well to my knowledge Bill recorded them.

How?---On a spreadsheet on the computer I think.

Just in Quad's business records?---Yes, yes.

And were you very specific with the hours to the extent of, you know, down to the minutes?---I think we were, yes. We were pretty specific. And I did keep that knowledge with me from even when I started in FMS.

30 And in relation to the little black book you say, did you take that with you to the Uni?---Yes.

And do you still have that little black book?---No, sorry. I disposed of it. I do get one very year. FMS supplies me with one now and every end of year I do dispose of it in a confidential bin.

40 But you, is it your evidence that you took the Quad little black book with you when you went to the Uni?---It was just documenting, you know, like my timing with the buildings.

Yes, I know, I'm just - - ?---Yeah, sorry, yeah, I did.

But you took it with you when you went there?---Yes.

And when did you dispose of it?---In January, it would have been in January 2010 when I got my new one I just transferred whatever information I had in my book over to my new one and then I put it in the confidential bin.

Including the times, the work times?---Yes.

Did you transfer that to the new book?---No.

You didn't?---No, because I no longer did cleaning so I didn't think to do that.

All right. Yes, Ms Williams.

10 MS WILLIAMS: Ms Slade, I think you referred to the hours that you prepared together with Mr Turner in 2008 being included in Quad's business records, correct?---(NO AUDIBLE REPLY)

And I think you said something like you have that information with you. Did you have a copy of the record that you and Mr Turner created in 2008? ---No.

No. It was something that was entered into Quad's system somewhere was it?---Yeah.

20

All right. It wasn't something that you had a copy of?---No, no, no, no, no.

When you - can you remember whether you had your little black book recording your hours for different buildings with you at the time you prepared the benchmark figures for the 2009 cleaning tender for the University?---I think I had said yes.

Right. So - - -?---Yes, I didn't destroy it until January in 2010 when I got my new one.

30

I see?---Yeah, it's just a little diary, it's actually blue, it's, I just call it a little black book.

That's all right and so you, you made reference to that black book if we could call that when you prepared the benchmark hours, is that right?---Yes.

And is it - - -?---And just from - by experience as well please note that I did, I'm very competent in my cleaning with the hours that I did with each building, yeah.

40

When you worked with Mr Turner on the hours that made their way into Quad's records in 2008, was, was your experience and the times recorded in your black book at that time - - -?---Yes.

- - - that made its way effectively into the, the hours that you and Mr Turner prepared for Quad Services?---Yes, yes.

Thank you?---There wasn't a lot changed in it to what I remember. There was, there was a bit but it wasn't every single building that was changed, there was still buildings that stayed the same.

And so is it fair to say, and I'm not - please understand I'm not making any - - -?---Ah hmm.

10 - - - criticism of, of you in asking this question but is it fair to say that when you prepared the University benchmark hours those benchmarks reflected very closely the hours that Quad Services had been taking to clean the relevant buildings?---I believe so, yes to that because we both, yeah, had worked on it in the past.

Now you mentioned that you had told Mr McCallum about the fact that you'd worked with Mr Turner on the hours for Quad Services previously? ---Yes.

20 When did you tell Mr McCallum that information?---When, when I think, when he, well, even when I started work like but um, before he asked me to be, to sit in with some interviews, yeah.

And that was interviews for the, the potential contractors for the new cleaning contract, is that right?---Yes, there was, I sat in with the first interview with Dobrilla and Bill and Bill even mentioned if I recall to my memory in that first, in that meeting that we sat in Bill had even mentioned that he had worked with the hours with me as well in 2008.

30 All right. And who else from Facilities Management Services was sitting in on that meeting if you can remember?---Chris.

That's Mr Ipkendanz is it?---Ipkendanz, Col McCallum, me, I'm unsure.

That's all right?---I think, I, I remember Brian being in one but I'm not sure, Brian Munro. I'm, I'm not a hundred per cent sure.

And you said you also told Mr Munro about the fact that you'd worked with Mr Turner on the hours for Quad previously. Can you remember when you told Mr Munro that information?---No, sorry.

40 Do you remember - - -?---Oh, I think, oh, hang on, I think it was when Col had me fill out the, that form, filled out that form and I signed it.

All right?---Yeah.

And do you remember whether that was before or after you'd finished preparing the benchmarks?---Sorry, I'm not - - -

When you - - -?---I think, I'm not 100 per cent sure, sorry.

That's all right?---Yeah.

When you told Mr McCallum about this did he say anything to you about it other than referring to the need to filling a conflict of interest form?---I can't remember. I just do remember him saying that we'll need to fill out one just because of the fact that you had worked with Quad, yes.

10 Do you remember whether Mr Munro said anything to you?---Sorry, I'm sorry.

The hours you calculated or the benchmark hours you calculated for the Bellevue Grandstand - - -?---Ah hmm.

- - - that was a different exercise wasn't it?---Yes, yes.

You didn't have knowledge from working with Quad about the cleaning of that particular facility did you?---I had cleaned that building.

20 I see?---Yes, I had. There was six of us, it took us three hours and ten minutes 'cause I timed it. Yes, but I had cleaned that building. There was actually several, if I remember correctly, there was actually several cleans conducted in that building before, before the actual opening of it and Bill and I had met at one stage, but I can't recall when that – and we discussed the cleaning of it and just like the process of it and how long it could take.

All right?---Yes.

30 When – do you remember when the Bellevue Grandstand was built roughly?---2009, I think.

And you finished working for Quad Services and moved across to the University in May of that year?---Yes, 4 May, yes.

40 Had you cleaned that building as an employee of Quad Services or after you joined the University?---That's what I can't remember. I'm pretty – I think I did it just before I had left that job. It was just a builders clean that we done and then, and then I did so some cleaning in it when I know I shouldn't have but I did, I was there so I could get the feel of it and all that after that.

So - - -?---And Bill and I, Bill and I were actually there together discussing the cleaning of it. Like and the process of it and, you know.

Do I understand you correctly that as Campus Services Officer you didn't have to, but you cleaned this facility so you could get a feel for what was required?---Yes.

So that you could then more adequately supervise - - -?---Yes.

- - - the people who were cleaning it?---Yes.

And your conversations or discussions with Mr Turner - - -?---Yes, there was.

- - - about the cleaning of the Grandstand - - -?---Yes.

10 - - - did that happen when you were working for the University?---Yes, it did.

Right. And can you recall roughly when those conversations happened from May 2009 onwards?---No, I'm sorry, I can't. But I do recall that Col did ask me to break down the hours, like I mean really break them down, like to every minute in about end of February, May. So I do not know, I didn't ask Col why, but yeah, that's the only thing - - -

20 That request made by Mr McCallum in – somewhere between the end of February and May - - -?---In 2010.

Right. Was it around that time February/May 2010 that you had these discussions with Mr Turner?---No, I'm pretty sure it was way before that. I had already submitted my hours.

All right?---It was way before that.

30 So before submitting your hours for the benchmarks you had a discussion with Mr Turner about the Grandstand hours?---It was in, early 2009 our discussions with that building with Mr Turner. It was, it was before we – I'm pretty sure it was before I had submitted any hours.

All right. I'm just trying to clarify the timing?---Yeah.

Was it before or after you started working for the University your discussion with Mr Turner?---It must have been after.

All right?---Yeah.

40 And do you remember telling – I'll withdraw that. Had you at that stage calculated some hours for the Grandstand cleaning?---We had roughly did together, yes.

And that was a calculation you and Mr Turner did together. Is that right? ---Yeah, just roughly. Just sort of like, yeah. That was way before, yeah, that was way before I was asked to submit hours, I'm pretty sure. Like at the end of the year.

I understand?---Yeah.

And was the purpose of that discussion then so that the University and Quad Services could reach some understanding about how long it should be taking Quad Services to clean the new facility? Was that the context?---Sorry?

Sorry. The discussion you had with Mr Turner about how long it would take to clean the Grandstand, you said that was a discussion that happened whilst he was working for Quad and you were working for the University. Is that correct?---Yeah.

10 And what I'm asking you is whether the purpose of that discussion was so that Quad Services and the University could reach some common understanding about how long Quad Services should take to clean that facility?---I don't, I can't commit to that because any – if there's a new area that comes on Bill and I – we've got a close working relationship and we've always discussed like how long it would take for an area to be cleaned or if there's any new additions to be done or – so I don't, I had not intention of making it – I don't know how to say it.

20 No, I'm sorry, you may have misunderstood the point of my question. I'll come at it in a different way?---Yeah.

As the Campus Services Officer for the University you had a role in ensuring that Quad Services was performing its cleaning work adequately, correct?---Yes, yes.

And if they were taking too long to clean a particular facility that was something you would take up with them, is that right?---I've never had to do that I don't think.

30 All right. Did you have any role, for example, in approving invoices that Quad submitted to the University for cleaning?---Yes.

40 If an invoice was submitted that showed a particular charge for a facility and you thought that charge was too high you would raise that with Quad Services?---Yes, but if – with any cleaning invoices that was raised with Bill Turner and I discussed it beforehand and he'll even let me know how long that has taken so, yeah, so he's always done that. Like even in set-ups, like setting up Lazenby Hall he'd always contact me and say, "This here is going to take, you know" – sometimes it only takes 20 minutes because they only have to just sweep the floor because it's already set at default so, yeah, there's always been a communication, there's no – I have not had to question any cleaning invoices. I feel fairly confident that they've all been accurate, pretty accurate.

And the discussion you had with Mr Turner about how long it would take to clean the grandstand was that a discussion in the context of firstly, Mr Turner indicating to you how long he thought it would take for Quad to clean that new facility, is that right?---Yes.

And secondly, possibly you indicating whether or not you agreed with that or if you had a different view, is that right?---Yes, yes, that's why, that's why I helped clean it just so I could get a feel of it and to make sure that it was correct, yes.

10 And the opinion you had formed at the time of that discussion with Mr Turner about how long it would take to clean the grandstand do you remember whether your view about those hours changed between then and when you prepared the benchmarks?---I worked it out over a 26 week period which I didn't click that when I handed it in that it was taken over a, over the whole year so that was a mistake on my behalf.

I understand that?---I did say that in my statement.

Yes, yes, I understand that?---Yes.

20 But when you had the discussion with Mr Turner that you've been referring to you had in your mind a particular number of hours per week was reasonable, is that correct?---Yeah.

And do you remember whether or not that remained your view about a reasonable time for cleaning the grandstand when you put your benchmark hours in?---Yes, about 18 hours a week, yep.

30 Do you remember when you completed the benchmark hours who you gave the document to?---I'm a little unsure, I can't remember if I forwarded it straight to Col McCallum or if I forwarded it to Chris. I did go back over my emails to try and find but there's some stuff that was deleted so I'm a little bit unsure on that.

Do you – I withdraw that. Did you have any discussions with anybody from Quad Services during the 2009/2010 - - -?---Definitely not.

- - - cleaning tender process?---Definitely not.

40 Do you remember meeting with Bill Turner in November 2009 in circumstances where he bought you a coffee or lunch or something similar? ---No, sorry. I did have lunch with Col McCallum - Col McCallum, Dobrilla and Bill at L'Pierre's, the French restaurant, whatever their name is, at – one evening but I think that was – I'm pretty sure that was definitely when I was working with Quad because Col had commented on my honesty and my cleaning ability and said that I should be taken out to lunch by Quad.

All right?---Yeah. That's – I do not recall actually having a lunch with Dobrilla and Bill in 2009 because I knew that I was not to socialise to Dobrilla, I was told this several times so, or especially in that time of – and

that was made a point to me even by Chris Ipkendanz that not to socialise with them especially while the contract was on so I find that a little bit, a little bit, yeah, I do not recall going to lunch in November.

I think you say in your statement that Mr McCallum also told you not to socialise with Quad personnel, is that right?---Mr McCallum did say that on quite a few occasions, yes.

10 The Commission has heard evidence that Mr McCallum himself was socialising with Quad staff members?---Yes.

Is that something that you are aware of?---Yes.

Were you aware of that at the time - - -?---Yes.

- - - that you were working under his supervision?---Yes.

20 And do you know whether other staff members at FMS were aware of Mr McCallum's social activities with Quad Services' people?---If other staff members were?

Yes?---Well, I assume so. I can't speak for other people.

No, I'm not asking you to do that?---Oh.

30 Was it for example something that you heard discussed or talked about in FMS offices between other staff members?---Oh, no, no. Bill and Dobrilla were quite open about it, like when they'd come up to collect Mr McCallum for lunch. I didn't think nothing of it, I just thought that was part of what they do, yes.

I have no further questions for Ms Slade, Commissioner.

ASSISTANT COMMISSIONER: Yes. Does anybody wish to examine this witness? No. All right. Thank you, Ms Slade, you are excused from further attendance?---Thank you.

40 **THE WITNESS EXCUSED**

**[10.31am]**

MS WILLIAMS: Commissioner, I call Mr Andrew Yardley.

ASSISTANT COMMISSIONER: Yes, is Mr Yardley here? Yes. Yes, Mr Yardley. You've been called to give evidence and you are required to answer all of the questions asked of you. You may seek a declaration, the effect of which would be that nothing you say here can be used against you. Do you wish to seek such an order?

MR YARDLEY: Yes.

10 ASSISTANT COMMISSIONER: Yes. The effect of this order is that no evidence you give or thing you produce can be used against you in any criminal, civil or disciplinary proceedings. However, it may be used if it's found that you've breached the Act. Do you understand the effect of the order?

MR YARDLEY: Yeah.

20 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 this witness during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30 **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 THIS WITNESS DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

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

MR YARDLEY: I'll take an affirmation.

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

ASSISTANT COMMISSIONER: Thank you. Yes, Ms Williams.

MS WILLIAMS: Mr Yardley, could you state your full name and address for the record, please?---Andrew Francis Yardley, XXXXX.

10 Thank you. And your position with Quad Services is presently?---Chief Executive.

I'm sorry?---Chief Executive.

All right. And has that been your position at all times since early 2005? ---Yes.

And Ms Cutler, Dobrilla Cutler, reports to you, is that correct?---Yes.

20 The University of New England entered into a contract with Quad Services for cleaning services in about February 2005, do you recall that?---Yes.

That was an important contract from Quad Services' point of view in terms of value?---Yes.

It was important to ensure that Quad Services performed its obligations under the contract?---Yes.

30 And Ms Cutler was primary responsible for taking care of that as general manager of the relevant region, is that correct?---Yeah.

It was important also to develop a good relationship with the principal contact person at the University, correct?---With the University in general but yes.

I'm sorry, your answer was?---With the University in general, yes.

And also with the, with Quad Services' key contact person at the University, correct?---Yes.

40 That contact person was Mr McCallum between 2005 and 2011. Is that correct?---Yes.

And Ms Cutler was principally responsible for maintaining a good relationship with Mr McCallum. Is that correct?---No, I'd say principally she was responsible for ensuring that the quality of the service that we provided was satisfactory and met the KPI's of the University.

Right. Somebody else had the responsibility for maintaining the relationship with Mr McCallum?---No, that was part of her responsibility, but it was more important that the quality of the service and the standards were maintained as a key point, so - - -

Was it part of your responsibility to ensure that Quad Services maintained a good relationship with Mr McCallum?---In an overall context I think it's my responsibility with every single contractor we have, so I'll have to answer and say yes.

10

Could Mr Yardley be shown volume 1 at page 436 please. Mr Yardley, could you just look at that document and then tell me whether you have seen it before?---Yes, I have.

All right. What is the document?---It would have been the internal document used at some meeting at some period of time.

All right. An internal document of Quad Services?---Yep.

20

And did you have a role in the preparation of the document?---I believe I would have had some role, yes.

Right. Does – do the sentiments expressed in the document reflect your understanding as Chief Executive Officer of Quad Services approach to client relationships?---Yes.

And so far as you're concerned did you take steps to ensure that Quad Services had what is described in this document as a great relationship with Mr McCallum?---Yes.

30

And did that involve taking Mr McCallum out to lunch on occasions?---I would have to say yes.

I would suggest on one occasion by yourself and on other occasions by Ms Cutler?---Yes.

And the cost of those lunches were bourn by Quad Services to your knowledge?---Yes.

40

And either you or Ms Cutler would pay for the lunch and Quad Services would get reimbursed that cost?---Yes.

Did you also take steps to maintain a great relationship with Mr McCallum by taking him out to dinner on a number of occasions?---Yes, he was taken out to dinner.

Those were on a number of occasions expensive dinners. Do you agree with that?---Well they were dinners that were broken down with five or six

people attending, so the total dollar value may have been high, but broken down into five or six people, the amounts would not be considered to be I don't think extremely high.

And do you agree that those dinners occurred once or twice a year typically?---I think there were probably – I think there were probably five dinners over the contract, so that probably if you average that out is one and a half times a year, something like that. Yeah.

10 And was one purpose – I'll withdraw that. One of the reasons why you arranged those dinners we've referred to was to create what's described in the third point of this document, halfway down the page, as a great relationship with Mr McCallum as opposed to what's described as a good relationship in this document. Is that correct?---I don't know whether I – I don't know whether I'd link that to, to that, that being the entire purpose, no.

I'm not suggesting it was the entire purpose, I asked you whether it was one of the purposes?---Yeah.

20

And your goal in creating a great relationship rather than a good relationship with Mr McCallum was to try and get for Quad Services great references, referrals and additional work, is that correct?---Our purpose was to ensure that we knew whether our client was happy or not with our work and from that whether we could use him as a reference, yes. I think in terms of additional work if you're talking, are you talking additional work in terms of within UNE or are you talking additional work as in with other clients?

Well, let's take it one at a time?---Yeah.

30

Referrals of additional work from other clients, that was one thing Quad Services was interested in getting from a great relationship with Mr McCallum wasn't it?---No, because I don't think that in terms of UNE that we would get referrals, I don't think that would be something that they would normally do. If it was a, this, this document applies to 450 clients so it could relate to if we were cleaning a club then I would expect that we'd, the likelihood is that we would get referrals from that club to other clubs at functions they attend so, so I don't necessarily see that that would be the, could be the case or would be case there.

40

You nominated Mr McCallum on occasions as a, a reference - - -?---Yes.

- - - for Quad Services, did you not?---Yes.

And that was done in the context of Quad Services bidding for work with other entities?---Yes.

So it's fair to say, isn't it, that Quad Services in maintaining a great relationship with Mr McCallum was hoping that any reference he would give would be favourable?---I think it's more about the quality of the service that we perform than anything else. We can have, we can have great relationships with clients but if we're not performing we're fired and we wouldn't use them as a reference.

Well, I'm using the terminology in this document just to be clear so - - -?  
---Yeah.

10

- - - a good relationship is where you're providing a quality service and the client's happy, correct?---Yes.

A great relationship is where you're not only doing that but you're engaging, you're adding a social element to cement what is referred to in this document as a great relationship, correct?---Yeah.

20

So what I'm suggesting to you is that one of the reasons why you arranged the dinners with Mr McCallum was to make sure that you had a great relationship rather than just a good relationship?---I think we had a great relationship anyway so I think the relationship is great and that was great because of the service that we were providing. I don't think that the, me going up and having a dinner or a lunch actually took that to another level.

30

All right. So why did you go and have dinner or lunch from time to time?  
---Armidale was a five hour drive away or a flight and so for me it was normally an overnight exercise. I would go up, I would spend time with my team making sure that the quality, have a look, do inspections on the place to make sure the quality was right, I would have a, a meeting with any relevant UNE people I needed to have and I would normally stay up overnight. So it to me was partly also about letting my hair down. I like nice food, I like nice wines as well.

So it was for your own personal social purposes, is that what you're suggesting to the Commissioner?---Not entirely no.

40

ASSISTANT COMMISSIONER: Well, it would be quite inappropriate for your business to pay for it if it was just a personal outing wouldn't it?---Yes, it would.

So it had a business purpose?---Yes. I - - -

And the business purpose is what's stated in this document isn't it?---I'm not suggesting it wasn't. This - - -

Well, you seem to be moving entirely away from the sentiments in this document?---But this, this, this document doesn't relate just to UNE though.

No?---This document - - -

It relates to the way that you do business, doesn't it?---Yeah, and, and, and 95 per cent of our business is in, is in the private enterprise and so ah, and within business entertainment or lunches, dinners, is a normal course of business.

And it was a normal course of business with this public sector entity as well?---Yes.

10

Well, you don't seem to have differentiated, I don't know why you mentioned the private entities?---Well, I don't know.

Because you didn't differentiate did you?---No.

Yes. Yes, Ms Williams.

MS WILLIAMS: Do you recall one occasion where you were in Armidale overnight but you were ill and therefore unable to have dinner with Mr McCallum, do you recall that?---Yes, I was on holidays.

20

I'm sorry?---I was on holidays.

I see, you were on holidays in Armidale - ?---Yeah.

- - - and so you were unable to have dinner with Mr McCallum because you were ill?---I don't know whether I was actually having dinner with Mr McCallum or I was just catching up with him but yes, I was ill and I didn't see him.

30

Do you recall on that occasion you bought him a bottle of wine and arranged for someone else at Quad Services to provide that to him later? ---Yes.

And that was by way of apology that you weren't able to take him out to dinner wasn't it?---I wasn't able to catch up with him and I stuffed him around, yes.

Is that because Mr McCallum - I withdraw that. Did you perceive that Mr McCallum developed an expectation that you would take him out to dinner - - -?---No.

40

- - - when you were up in Armidale?---No, I didn't.

You provided him with a bottle of wine on the occasion when you were unable to take him out to dinner as part of maintaining this great relationship on behalf of Quad Services, is that right?

MR WATSON: I object. My client has already answered the question that he didn't know if he'd had an arrangement to take him to lunch, he thought that we was unable to catch up with him.

ASSISTANT COMMISSIONER: Well, I think he said he had stuffed him around which implies that he had some arrangement which he couldn't keep.

10 THE WITNESS: To catch up with him but I couldn't tell you whether it was dinner or not.

MR WATSON: My friend put it to him that he had in fact agreed that he had an arrangement to go out to dinner (not transcribable)

ASSISTANT COMMISSIONER: Yes.

20 MS WILLIAMS: Well, I'll deal with that by putting the question a different way. The question I actually asked was you provided Mr McCallum with the bottle of wine on this occasion that we've mentioned as part of your work in developing a great relationship with him on behalf of Quad Services as opposed to a good relationship, correct?---No, I'd say no, I'd say it's purely because I stuffed him around and that was my way of apologising.

ASSISTANT COMMISSIONER: I'm sorry, and you had stuffed him around by how?---Well, I told him I was up in Armidale or I would be up in Armidale, I would catch up with him. I didn't, I was sick, I'd had food poisoning.

30 And by catch up with him you meant take him out to dinner?---No, not, I, I can't remember and I, and I would, I was up there with my wife so I doubt it would have been dinner and - because - - -

Did you ever go up to Armidale on Quad business where you didn't catch up with Mr McCallum apart from this time?---I may have. I may have but I, I don't have a memory of whether I have or haven't.

40 So as far as you recall apart from this occasion you always did go out to dinner with him when you went to Armidale?---Well, I can't say whether I definitely did or not but, but in most occasions, yes, it would be yes.

Yes. Yes, Ms Williams.

MS WILLIAMS: Mr Yardley, are you aware that under the cleaning contract that Quad Services entered into with the University in 2005 the arrangement was that the University would provide a van to Quad Services to use in performing the cleaning work?---Yes.

Are you aware that in about February 2007 there was a change to that arrangement?---Yes.

And the Commission has heard evidence that the change involved the University invoicing Quad Services for the cost of that van?---Yeah.

You were aware of that in February 2007?---No, I can't say I was aware of that in February 2007.

10 Do you remember when you became aware of that change?---I can't say exactly. I may have been informed that there was a, that we were using the van and we were invoicing but I can't say when that occurred, whether it occurred at that time or not but I certainly know after I was provided a statement I then went and checked to see what the story was to have a better understanding.

All right. Which statement are you referring to?---My witness statement.

20 Excuse me one moment, Commissioner. Mr Yardley, just to be clear you were interviewed by Commission officers in connection with this investigation, do you remember that?---Yes.

But you have not actually signed a witness statement as such, is that correct?---Yes, that'd be, I, yeah, I don't think I did sign anything actually.

You, I think you've been provided with a copy of - - -?---I have.

30 - - - a transcript of your interview and that's the document you're referring to - - -?---Yes.

- - - as your statement?---It is, yeah.

Thank you. I had asked you about part of the arrangement which involved the University invoicing Quad Services for the van?---Yes.

I think by one of your answers you indicated you also understood that Quad Services was invoicing the University?---Yes.

40 And the arrangement was, was it, that Quad Services would charge back to the University the cost of the van, you understood that?---Yes, yeah.

Did you understand that there was an additional five per cent - - -?  
---Administration fee.

- - - surcharge to be added to that amount?---Yes, yes.

Did you know what the invoicing arrangements were for that charging back to the University?---At that point – did I know in 2007 when that occurred?

I'd have to answer that I don't or I don't recall but I certainly did after I met with the investigators.

Right. So you've become aware during the course of this investigation that those charges were described as for external work or external cleaning, correct?---Yes.

10 And that was the first time you became aware of that, is that right?---Well, certainly that I've taken any attention to it. I may have been told that there was some changes occurring to, or to do with the van but not involved in any understanding, yeah.

I've asked you about lunches and dinners with Mr McCallum, the Commission has heard evidence that from time to time Mr Turner of Quad Services would arrange for cartons of beer to be delivered to FMS officers for their Friday afternoon drinks, you're aware of the Commission having heard that evidence?---Yep, yep, yep.

20 And that he would be reimbursed for the cost of that by Quad Services?  
---Yes.

Is that something that you knew about at the time that it was happening from about April 2007?---No, I can't say I did.

Right. Is it something that you became aware of at any later time other than in the course of this investigation?---Only again when I was interviewed.

30 The Commission has also heard evidence that Quad Services through Mr Turner made monetary contributions to FMS Melbourne Cup functions from time to time?---Yes.

Is that something that you had any knowledge about other than in the course of the Commission's investigation?---I may have, it may have been mentioned to me but I can't say specifically that I had any – that I can recall any conversation or not.

You just can't recall one way or the other?---No.

40 The University issued a Request for Tender for a new cleaning contract on 17 December 2009, do you recall that?---I recall – I couldn't give you the exact date but, yes, I can recall that in the end of 2009 a new tender, yep.

You were conscious during 2009 that the University would be moving to re-tender for the cleaning services some time in early 2010, is that correct?  
---Yes, the contract was expiring, yep.

And late in 2009 in about mid December the University in fact extended Quad Services' contract on a temporary basis to enable it to complete that tender process, do you recall that?---Yes. Yep.

Just show you a letter which your Counsel has provided to me this morning dated 15 December 2009. And I have a spare copy for the Commissioner. Is that a letter that you saw around 15 December 2009?---I would not necessarily have seen this, no.

10 Right. Is that a letter that you have located in Quad Services' records before coming here today?---Yes.

And that confirms, does it, your recollection that the University extended Quad Services' contract for a short period of time?---Yes.

Commissioner, might that be marked for identification at this stage.

ASSISTANT COMMISSIONER: Yes. This will be MFI 2.

20

**#MFI 2 - QUAD SERVICES PTY LTD LETTER DATED 15 DECEMBER 2009**

MS WILLIAMS: And I think, Commissioner, I omitted to tender page 436 of volume 1, might that be included in Exhibit 1.

ASSISTANT COMMISSIONER: I thought I had but if I haven't page 436 of volume 1 will be part of Exhibit 1.

30

**#EXHIBIT 1 - PAGE 436 OF VOLUME 1 WILL BE PART OF EXHIBIT 1**

MS WILLIAMS: Mr Yardley, one of the occasions on which you took Mr McCallum out to dinner together with Ms Cutler, I suggest, was 17 December 2009, do you recall that date?---Yes. Yes.

40 And do you recall that that coincided with the occasion of the University issuing the Request for Tender for the new cleaning contract?---I don't recall it being the same date but obviously from the evidence in the last couple of days that that's what has come out, yep.

Was the new cleaning contract discussed between Mr McCallum, Ms Cutler and yourself at dinner on that occasion?---I don't believe so.

Was Mr Turner also present at that dinner as best you can recall?---No, I couldn't say, I couldn't recall.

Do you recall what was discussed at the dinner?---It would've been football, it would've been what we're doing at Christmas, holidays, general social chit-chat.

10 One of your – I withdraw that. Quad Services paid for the dinner, you were reimbursed for that cost, is that correct?---Yes. Yes.

And the dinner was instigated by you or by Ms Cutler?---It could've been either, I'm not sure.

So far as you were concerned the key purpose of that dinner was to cement the great relationship that you've been building between Mr McCallum and yourself and Ms Cutler on behalf of Quad Services, correct?---To get together for Christmas, yes.

20 But the reason you were wanting to get together for Christmas was to cement that great relationship with Mr McCallum, correct?---Yes.

Because this was a critical period of time for Quad Services with the cleaning contract being up for re-tender, that's right isn't it?---Yes, it was a critical time, yes.

Mr Yardley, do you still have volume 1 before you? Could you turn to page 437 please?---Yes.

30 Can I just inquire first whether the copy that you have there is legible or whether it's faintly printed?---No, it's legible.

Thank you. Is that a document that you've seen previously?---Not this specific one but I've seen the, I guess the master document.

I take it then that you say you didn't prepare this document, is that right? ---No.

40 Do you have any knowledge of who prepared the document?---I can't say with certainty, it was something that we bought in for a very short period of time and it may well have been done as a training exercise. Certainly I would say that there probably were a few people who supplied information within it but I couldn't be certain as to who has done it.

Do you recall being asked to supply information in relation to the Quad Services cleaning contract on around 11 December 2009?---Supply information?

To someone else within Quad Services?---No. This wouldn't be something that would be completed by myself anyway.

Well, following on from that answer do you say that because of your particular position and responsibilities?---Yes.

10 Who within Quad Services had the position and responsibilities of a kind that would make it appropriate for them to prepare this document?---Could be anyone in Operations so an Operations Manager that runs businesses or areas could fill out one of these.

And who was the Operations Manager responsible for the University of New England?---We would've had Dobrilla Cutler as General Manager, there was a gentleman called Greg Palmer but he didn't have responsibility for the University but he had some responsibilities for Dobrilla in some areas and it would be Bill Turner.

Can you turn to page 440 please?---Yes.

20 And can I ask you to read to yourself the section that appears in subparagraph C about two-thirds of the way down of page 440 - - -?---Yep.

- - - and continues over about a third of the way down page 441. Just let me know when you've read that?---Yes.

Thank you. Do you see from reading that section that whoever did complete the document purported to know for example in subparagraph (ix) of paragraph C that Quad's current price was within range?---Yes.

30 Did you have any understanding of what that range was in December 2009?---I think in terms of the definition of how competitive our price is, we're really talking about our own understanding as an organisation as to whether this price, whether our margins, how competitive we are out in the marketplace just from our knowledge.

All right. So as you read this particular section of the document it doesn't refer to a range set by the University?---No.

40 Is that in effect your evidence?---(NO AUDIBLE REPLY)

Do you see in subparagraph (x) of paragraph C, the person who's completed the document has included information about how the University will make a decision on the new tender. Do you accept that?---In which one sorry, x is it?

Yes, and I'm referring to - - -?---Is our client, is our contact the decision maker, that one?

That's one. And then the answer in red underneath that?---Yep. Yes (not transcribable) yep.

Do you agree that that answer indicates that the person who completed the document had an understanding about how the University would make the decision?---Well yeah, it says that there'll be a tender committee yes, and for the University that would be a normal process.

10 Do you – did you have that knowledge in December 2009 specifically in relation to this tender?---That there'll be a tender committee?

Mmm?---Yes, because that's normal process for a university.

And do you see the very last question and response on page 440, what does this mean for our tender price and approach and the response after that, we have the knowledge of what will be added to this tender document which other companies don't?---Yes, I can see that.

20 So far as you're aware in December 2009 did anybody within Quad Services have knowledge that other companies would not have had about what would be in the tender?---Not what would be in the tender. We certainly had knowledge of the site because we were the incumbent, so our understanding of how to clean the buildings and what was needed at times and everything would be far superior than anyone else because of the incumbent contract.

30 ASSISTANT COMMISSIONER: Yes, but that's not what this says. It says we have knowledge about what will be added in this tender?---Well I can't - - -

Which other companies don't have?---Yeah. Well then my answer if I come back to the question which was as far as I'm aware do I know if anyone's got any knowledge would have to be no.

MS WILLIAMS: Then if you go over to page 441 and before you answer this question I'll just remind you that this document is dated on page 437 11 December, 2009?---Yep.

40 And I'm suggesting to you that that was approximately a week before the University's request for tender was issued on 17 December, 2009?---Ah hmm.

Do you agree with that?---Yes.

On page 441 do you see there the question xiv subparagraph 2 of that, are we increasing the price and the response in red, yes, as there are extra requirements in this tender?---Ah hmm. Yes, I can see that.

Did you know as at 11 December, 2009 about any extra requirements in the tender that the University was yet to issue?---No (not transcribable)

So far as you're aware did anybody else with Quad Services have knowledge of any such extra requirements as at 11 December, 2009?---Not that I'm aware.

10 All right. Is this the sort of document, assuming it was completed by somebody else within Quad Services on or about 11 December, 2009 that you expect would have been provided to you or brought to your attention?  
---It may well have, yes.

Are you saying by that answer that it may in fact have been brought to your attention and you don't recall?---No, I'm not saying this particular document was brought to my attention because I don't recall seeing it. You asked me – if you can go back to the question that you asked?

Well I'll ask a slightly different question to try and clarify?---Yep.

20 Are you saying this is the kind of document that may or may not have been brought to your attention?---It is the kind of document that may or may not, yes.

Right. And you have no recollection of seeing this document?---No.

If you had seen it as at 11 December, 2009 or thereabouts do you think it is likely that you would recall seeing it?---Yes, I think so, yeah.

30 So the affect of your evidence is that you think it is unlikely that you saw it at the time. Is that correct?---Yes.

Commissioner, I tender pages 437-446 of volume 1 and ask that they be incorporated in Exhibit 1.

ASSISTANT COMMISSIONER: Yes. Those pages will be incorporated in Exhibit 1.

40 **#EXHIBIT 1 - PAGES 437-446 WILL BE INCORPORATED IN EXHIBIT 1**

MS WILLIAMS: You mentioned I think a Mr Palmer as one person who might possibly have completed this document?---Yes.

Does he still work for Quad Services?---Yes.

ASSISTANT COMMISSIONER: Are you leaving this document now Ms Williams?

MS WILLIAMS: Yes, I was proposing to finish.

ASSISTANT COMMISSIONER: Yes. I just wanted to ask the witness a question about page 445 of this document. At the bottom of the page there's an item emotional bank account, number 4?---44 - - -

10 5?---Ah hmm. Sorry, the pages numbers are very poor.

It's the second last page of the document?---Oh yes, okay.

You know, what is the state of the emotional bank account with the client, very good?---Yep.

What would be an effective deposit that is also cost effective? Visit by CEO on 17 December. Do you see that?---Yes.

20 That's a reference to the - to your visit - - -?---Yes.

- - - to have dinner - - -?---Yep.

- - - with the client. And this whole document is a job retention protocol so I presume it's purpose is to set out how can you retain this job?---Yes, I guess, yep.

Well that's, that's what you're after obviously - - -?---Yep, yep.

30 - - - as a businessman?---That's right. Yep.

You want to retain it don't you?---Yep.

So this strategy of you know, going up to see Mr McCallum and entertaining him was all part of a job retention strategy. Would you agree with that?---Certainly visiting Mr McCallum, going and seeing him, understanding were they happy with our service or not, yes.

Yes, thank you. Yes, Ms Williams.

40

MS WILLIAMS: Mr Yardley, what role if any did you play in the preparation of Quad's tender that it submitted to the University in January 2010 for the new cleaning contract?---I would have overlooked the end result in terms of what they'd compiled. And I attended the presentation which I can't tell you when that was, actually.

I suggest to you it was in March 2010 after the tender had been submitted? ---That makes sense, yep.

All right. And that was the extent of your role, oversight and attending the presentation. Is that correct?---Well they may well, they would have bounced ideas off me and – but yes in the main completed document this is what we’re going to submit, have a look through and then, then the presentation. So they would have bounced ideas, but I couldn’t tell you what they would have been. They could have been anything.

10 Who else from Quad Services to your knowledge worked on the tender that was submitted in January 2010?---There would be Bill Turner, Dobrilla Cutler, David Chaloub, I think that’s probably it.

Mr Turner’s role was to prepare the hours per week that Quad was to be submitting to the University that would be required to clean each nominated building, is that correct?---To a degree, yes. The only reason I say to a degree is because we had been cleaning the place then for five years and had, already had the understanding in terms of what we needed to do, it would have been more about him looking to see whether we needed to finetune whether there were areas where we felt that we had too much  
20 labour and we could reduce it during the process.

And Mr Chaloub’s role was to calculate the prices to be submitted, taking into account amongst other things those hours per week that Quad was including in its tender, is that correct?---Yes.

What was Ms Cutler’s role?---Really to work with Bill in terms of looking at the hours, her understanding of the site and, and then if David Chaloub had any questions that he could ask her as well so in, in overall operational understanding of what was required to clean the site.  
30

So far as you’re aware did Quad Services have any communication with Mr McCallum in relation to its submission while Quad Services was preparing the submission?---Not that I’m aware of.

So far as you’re aware did anybody from Quad Services run the figures to be included in Quad Services’ tender past Mr McCallum before the tender was submitted?---Not that I’m aware of.

40 Not the estimated hours per week?---No.

And not the labour rates?---No, no, not that I’m aware of.

And not the overall price?---Not that I’m aware of, no.

Can Mr Yardley be shown volume 3 please at page 297?---Thank you.

Do you recognise that document, Mr Yardley?---Yes.

Do you recall sending that email to Mr Chaloub, a copy to Ms Cutler on 19 January?---I don't recall sending it but, but it's definitely from me, yes.

And I want to suggest to you that the date on which Quad Services tender was submitted was 22 January, 2010. Do you recall that?---No, I couldn't tell you what date it was submitted, but - - -

10 If you have – if you just turn briefly for a moment without losing that page over to page 332 of the same volume, volume 3?---Yep. 332, yes.

Sorry, 322?---322, sorry. Yes.

Does that, having looked at that page do you accept that Quad Services submitted its tender on about 22 January, 2010?---Did you say on about?

Well let me put it this way, Quad Services signed its schedule of rates on 22 January, 2010?---Yes.

20 You accept that?---Yep.

And I'm suggesting to you that it submitted its tender either on that day or very close after that date?---Yes, I would agree with that.

And it follows doesn't it that as at the time you sent the email at page 297 the tender document had not yet been sent to the University?---Yes.

But was most likely in the final stages of preparation?---Yep.

30 And in this email you ask the question of Mr Chaloub didn't you whether Mr Turner had run the figures past Mr McCallum?---Yes.

Was that something you expected Mr Turner to do?---Sorry?

That was something you expected Mr Turner to do before Quad put its tender in?---Sorry I'm not sure what you mean what I expected him to do.

Well you expected that Mr Turner should consult Mr McCallum about the figures in Quad's tender document?---No. No.

40 You say no?---Yeah, I say no, yep, no.

Well what was, what question were you asking then when you wrote the words, has Bill run the figures past Col on page 297?--- At the time there were some new buildings and my understanding is we were waiting on some square meterage of those buildings. And so we didn't get those. I wanted to understand – we worked them out ourself, I think Bill worked them out himself and so we wanted to make sure that that was accurate. So I think it was simply saying to David Chaloub had that been checked.

And you recall as you sit here now do you that that was the thought in your mind when you typed those words?---I'm pretty sure, yes.

ASSISTANT COMMISSIONER: Well I'd ask you to think carefully about this answer?---Yep.

On the face of it it's referring to the attached tender and it says has Bill run the figures past Col?---Yeah.

10

Now that on the face of it would not convey to anybody that you were talking about particular square meterage of unknown buildings or anything else?---No. But we would have had conversations about that and this was - - -

Who would have had conversations?---Myself and David Chaloub. David Chaloub probably with, with Bill. And so this is, this is a, an email that would have been asking that question had that been checked.

20 So you're saying Mr Chaloub would well have understood from this email exactly what you were saying?---I would, yes.

And the answers that you gave to Counsel Assisting prior to being shown this document, that is that to your knowledge none of the figures from the tender as to price, hours, et cetera were run past Mr McCallum, do you adhere to that evidence?---Yes, I would say that would be correct, yep.

And in your view that would have been quite improper wouldn't it?---Yes, very much so, yep.

30

Yes. Yes, Ms - - -

MS WILLIAMS: Thank you, Commissioner. Mr Yardley, could you turn to page 317 of volume 3, which is the same volume you have there?---Yes.

If you read the list of building numbers and names that appear at pages 317 through to 320?---Yep.

40 Are you able to identify which were the buildings that you were waiting on information about from the University that you're saying - - -?---No, I wouldn't be able to tell you, sorry. I wouldn't know that information.

So you recall that there were some buildings you were waiting on information for - - -?---Yes.

- - - but you don't recall which one?---Yeah. Again, I don't get involved in what - in the, in the whole process of putting a tender together. The costings and stuff I would have been informed that, that we were waiting on

some information, we had some clarification in terms of the square meterage and I simply asked that question before we submitted, did we have that, did we know it was right.

ASSISTANT COMMISSIONER: Mr Yardley, that's not what the email says. It doesn't say have we obtained information, it says have we run the figures past Col?---Yep.

10 Now on the face of it that would seem to indicate have we run the figures in the attached document past Col?---Well, I, I don't agree. I believe it was to do with building square meterage.

The tender doesn't say anything about square meterage does it?---No. No.

Well - - -?---But for us to work our costings out, for us to make sure we work out based on square meterage. For us to quote a building a square metre is how we work it out.

20 Well you'd already been doing most of these buildings?---Yep.

But there were some changes to some buildings and they were different - - -

Well which buildings?---I couldn't tell you. I wouldn't know.

Okay. Well it would have to be new buildings, buildings you hadn't done before or they'd had extensions put on them?---Or, or changes to, yeah, areas shut down or whatever.

30 All right. Well look I just want to give you an opportunity to respond to this fully, that is you are satisfied that in sending that email you were referring to figures that were not to be run past Col, but that he was to provide?---Well he was to confirm that that they were correct, yes.

So somebody in your business was going to send over square meterage that you thought was right and he was going to confirm it?---Yes.

That's your understanding?---Yep.

40 Yes. Yes, Ms Williams.

MR McGIRR: Assistant Commissioner, I wonder if the witness might be asked to speak up a little.

ASSISTANT COMMISSIONER: Yes. You have been dropping your voice, do you mind speaking up?---Sorry. Yep. Yep.

Thank you.

MS WILLIAMS: Just picking up from that last answer to the Commissioner's question, Mr Yardley, is it the case then that Quad Services did have some communication with Mr McCallum about the contents of its tender submission before it submitted the tender on 22 January or thereabouts?---No, I said no, I said the answer to that is no, this is purely about understanding the information that we needed to complete the tender.

10 Well, as I understood your answer to the Commissioner's last question your email that appears at page 297 was asking Mr Turner to run the square metre figures for the buildings you can't identify now past Mr McCallum, correct?---Or asked him had he, yep.

Did you get a response to this email, do you know?---I couldn't tell you whether I did or not. I think if I got any response the answer was probably yes and they were confirmed correct I would imagine.

Do I understand this properly? You had an oversight role in relation to this tender, correct?---Yes.

20 You were reliant on Ms Cutler, Mr Schmude and Mr Turner to put the tender figures together?---Yes.

Both in relation to the estimated hours?---Yes.

In relation to the pricing?---Yep.

Quad Services had lengthy experience in cleaning all of these buildings? ---Yes.

30 And that experience was the principal basis on which it calculated the estimated hours, is that right?---Yes.

The price was a reflection of Quad's rate and those hours, correct?---Yes.

Although you had only an oversight role you say you recall that there were some buildings in respect of which Quad Services needed the University to provide or confirm the square meterage figure?---Yes.

40 Why was it important for Quad Services to have the square meterage figure if it was able to determine the cleaning hours based on its prior experience? ---Again my understanding is limited but there had been some changes. Now, I'm not sure whether they were new buildings, whether they were changes to the existing buildings, I'm not sure, all I know was that I had been informed that they were waiting on confirmation to check on that information.

So there had been changes to buildings during the term of Quad's cleaning contract?---I would think the answer would be yeah, there would've been, yes.

But Quad Services at the time was there on the ground cleaning these changed or new buildings, correct?---Yes. I would think so, yes.

Quad Services or its staff at least, therefore, knew these buildings, correct? ---Yeah.

10

Knew what was involved in cleaning them, correct?---Yes.

And knew how long it was taking each day, each week, whatever the case may be?---On, yep.

So Quad Services had information which enabled it to estimate the hours required to clean each particular building, that's right isn't it?---Yeah, but we also used building square meterage to work out our stuff and so - - -

20

ASSISTANT COMMISSIONER: I mean I don't see how you say you used square meterage because this uses the hours and a rate for those hours?

---Yes. But to work out those hours - - -

But the square meterage wouldn't affect the hours, you knew what the hours were, they were working the hours?---Well, I don't - no, I don't agree and - - -

30

You don't agree they were working the hours already?---I agree they were working the hours but if buildings had changed, if some areas had changed or if something was different then we would need - - -

Yes, but buildings weren't suddenly changing, you were doing this work, you were doing it right up till the tender was issued and after the tender was issued?---Yep.

40

You were cleaning the buildings, they weren't just suddenly developing new wings on them were they?---That I don't know but I think there was - there were obviously some building works occurring and some changes that had occurred. I can't give you detail because I don't know, all I know was we were waiting on that information.

Who told you you were waiting on that information?---That would've been either David Schmude or Dobrilla I would imagine.

Yes. Mr Yardley, look, I must suggest to you your answer doesn't seem to make any sense to me, it seems to me to be trying to explain the clear meaning of this email?---Well, no, sorry, but that is my understanding.

Yes. Yes, Ms Williams.

MS WILLIAMS: Just looking at your email at page 297 again, Mr Yardley, it's a response to Mr Schmude's email which appears lower down that page, do you see that email from Mr Schmude?---Yes.

That email has an attachment to it, does it not?---Yes.

10 And Mr Schmude's message indicates that that attachment was a final work book and pricing schedules?---Yes.

And the final work book was an internal Quad Services document, correct? ---Yes.

And the pricing schedules were the schedules to be attached to the tender, correct?---Yeah, I would think so, yes.

20 And the pricing schedules in their final form are seen, aren't they, at pages 315 through to 323 of volume 3. Feel free to look at some of the later pages which are other schedules but I'm suggesting to you 315 to 323 are pricing schedules?---Yes, they are.

Now, you wouldn't have been suggesting – I withdraw that. You wouldn't have been asking whether Mr Turner had run Quad's internal work book past Mr McCallum would you?---No.

30 So what you are asking, I'm suggesting to you, in your email at page 297 is whether Mr Turner had run the figures in the pricing schedules past Mr McCallum?---No.

The Commission has heard evidence that a number of the weekly estimated hours in Quad's tender schedule at page 317 to page 320 were identical to internal benchmarks prepared by the University?---Yes.

You're aware of the Commission having heard that evidence?---Yes.

You've heard me asking other witnesses about these questions?---Yes.

40 And you understand that there are six major facilities which involve a high – a relatively high number of weekly hours - - -?---Yep.

- - - where the figures are identical between the two sets of figures?---Yes.

Do you have any explanation – I withdraw that. First of all, do you regard that as an extraordinary thing?---Yes and no. And the reason why I say no is because Rochelle Slade – my understanding from listening to what we've talked about, what was said in the last couple of days - was the one who put the University – what's the terminology – matrix together and, of course,

she worked for us so she had our information and used those, I believe, to put together her matrix.

She hadn't worked for you though since May 2009, correct?---Yep.

And since – and Mr Turner was the person at Quad Services who put together the estimated hours for this tender?---In conjunction with Dobrilla, yes.

10 That's right, in conjunction with Ms Cutler, I'm sorry. So what I'm suggesting is that Ms Slade's role in preparing the benchmarks would certainly explain close similarity between –or may explain close similarity between Quad Services' figures and the University benchmarks?---Yes.

But does not explain, I'm suggesting to you, figures being identical?---No, they wouldn't.

I'm sorry?---I said no, they wouldn't explain that, no.

20 So there has to be some other explanation, doesn't there, for the figures being identical?---Yes.

Because it's quite a complex calculation extrapolating from how long does it take Quad Services to clean this particular building each time to working out a precise figure with decimal points of hours per week isn't it?---Again, yes and no. Estimation for cleaning is not an exact science. So someone might estimate the cleaning of this room and give it 15 minutes, someone else might give it half an hour, it depends on their experience, it depends on their background and how they've actually gone about doing it.

30 Well I'm suggesting to you that the reason for certain figures in the University benchmarks being identical to the Quad Services figures is that you asked for the Quad Services figures to be run past Mr McCallum?---No, I don't agree.

And I'm suggesting to you that that was done?---No, I don't agree.

You don't agree.

40 ASSISTANT COMMISSIONER: Could you keep your voice up, please?  
---Sorry, yeah.

Commissioner, is that an appropriate time?

ASSISTANT COMMISSIONER: Yes. We'll adjourn at this time until 11.45.

**SHORT ADJOURNMENT**

**[11.30am]**

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, Ms Williams.

MS WILLIAMS: Mr Yardley, I was asking you some questions about your email at page 297 of volume 3, do you still have that there?---Yes.

10 I'm going to hand you a further document and I provide also a copy for the Commission and one for my learned friend. Mr Yardley, can you just take a moment to look through that bundle of documents you've been given and then I'll ask you to confirm that that is Mr Chaloub's email which appears at the bottom of page 297 together with the attachments?---Yes.

Are you able to identify, and take further time to look through the documents if you need to, which figures within the attachments you were asking about in your email on page 297, that is which figures were you asking whether they had been run past Mr McCallum?---I would expect it  
20 relates to the square meterage to do with certain buildings which if you look on page 6 of 74, 7 of 74 and 8 of 74 in column J.

So dealing first with page 6 of 74?---Yeah.

Are they the, are they the items highlighted on that page in red?---Ah, no, I couldn't tell you, I wouldn't know which ones they related to.

All right. So you say the figures that needed to be run past Mr McCallum as referred to in your email at page 297 were some or all of the figures in the  
30 columns on pages 6 to 8 of 74, the column which is SQM square metres, is that right?---Yes, yeah.

ASSISTANT COMMISSIONER: And is it your evidence that you had reason to believe some of those square meterages may have changed?---Not necessarily changed, we may not have even had them so during the term of the - - -

Well, you've obviously got something put in here?---Yes. And so that could have been worked out by us and so it would have just been to confirm  
40 that they were accurate square metres.

So you didn't think they had necessarily changed, you thought - - -?---I can't tell you because I don't know. All I'm, all, all I know is I had a conversation at some stage where they were waiting on confirmation of some square meterage.

Yes, yes, Ms Williams.

MS WILLIAMS: And looking at these pages 6 to 8 of 74 are you able to say what it was about those pages that triggered you to check whether or not those square metres had been confirmed?---Only well, not the, nothing to do with these particular pages apart from the fact that, that that's how we work out our production rates, that's how we work out our cleaning. This here allows us to then work out what we need to do in terms of time to work out our estimation.

10 Are you saying that the estimated time or estimated hours is based on the square metre area of the building, is that correct?---Well, it's a combination, it can be based on the square meterage of the building, it could be based on a combination of square meterage plus site so someone going and looking at it and saying I think this is this much time and so it could be a combination of either. When it comes to cleaning of toilets, for example, it can be based on the number of units in the toilets, so the numbers of pans, the number of basins so it's, it's not so straightforward just being production rates but that is one part of it, yeah.

20 Square meterage is in effect the starting point isn't it for working out how long it's going to take you?---It can be, yes.

After that you need to look at for example, surface areas, carpet, vinyl, floorboards?---And they will, they'll have a different rate, yep.

And you then as you say, need to look at the nature of the site, whether it's a laboratory, a lecture theatre or a toilet area?---Yes.

30 And Quad Services had been carrying out the cleaning of all of the facilities which were being, which were to be tendered for. Correct?---Yes.

40 And it knew from its experience on the ground how long it took to clean each particular area?---Yes. We had, we were spending – we knew what we were spending on time. That doesn't necessarily mean that in a re-tender that we won't relook at that part of the estimate. His role was really to look at it to say does that need to be changed. The downside with operations people on looking at current jobs is they will always want to have more time when sometimes that's not, shouldn't be the case. It should be cut, it should have less time. So we need to make sure that we are, for want of a better expression benchmarking what we're currently doing versus what we think if we were tendering on it.

And in circumstances where Quad Services had been actually doing the cleaning at the site, wouldn't you look to what was actually happening at the site rather than something such as square metres to decide where the figures needed to be changed?---No, we'd use a combination of both. We'd be looking, we'd look at what we actually do. Again, from – with the operations team looking after it, there is always the perspective that they want more time cleaning, the cleaning time involved in being able to clean

an area, take this building for example, it is very difficult. There is less and less time over the years in terms of what you, what you can allocate to cleaning. So operations people always want to push the time up, add more time. We're in a highly competitive industry. Our – the difference is, is extreme if you have – we have tenders that are submitted and we then find that they range from, you know, 60,000 to 150,000 in value. And things are tight within our industry, so we can't just rely on our operations team to say this is the time we need on the job. We have to then use production rates, we have to use the estimation team, as an – almost as an independent body  
10 to, to confirm that what we're doing is right and there's no fat that can be taken out of the job.

Can you look for a moment please at page 302 of volume 3 which you have there. Did you see that letter which is from pages 302-304 at the time that it was sent or thereabouts?---I assume I would have, yes.

Had you heard the name Chris Ipkendanz prior to Quad Services submitting its tender?---The 2010 tender?

20 Yes, the 2010 tender?---Yes.

Were you aware prior to submitting the tender that Mr Ipkendanz was the Acting Campus Services Manager?---Yeah, I believe so, yes.

And as far as you were aware he was the appropriate person to whom the tender was to be sent. Is that right?---Yes.

Was he the person responsible for on behalf of the University providing clarifications or information that Quad may require in connection with the  
30 tender so far as you were aware?---I'm not sure, but I would assume if was the person responsible for the cleaning tender, then the answer would be yes.

So just revisiting your email at page 297 then why were you asking whether Mr Turner had run the figures past Mr McCallum rather than Mr Ipkendanz?---I wouldn't, I wouldn't know. I wouldn't know. It could have been that, it could have been a number of reasons. But I wouldn't be able to give you the answer on that as to why.

40 Commissioner, could the bundle of documents that's been shown to Mr Yardley be marked for identification please.

ASSISTANT COMMISSIONER: Yes. The bundle of documents attached to the email of 19 January 2010 will be MFI 3.

**#MFI 3 - BUNDLE OF DOCUMENTS ATTACHED TO THE  
CHALOUB'S EMAIL DATED 19 JANUARY 2010**

MS WILLIAMS: Thank you, Commissioner. Mr Yardley, I asked you some questions before the adjournment about the identical figures that appear between the University's benchmark hours per week and Quad Services' submission?---Yes.

10 You understand, do you, from hearing evidence given by other witnesses in this inquiry that one of those figures relates to the Bellevue Grandstand?  
---Yes.

And do you understand that the Commission has heard evidence that the figure of 18.23 hours per week stated in the University's benchmark was in fact an error?---Yes.

Sorry, that's a - - -?---Yes.

20 I might just ask you if you don't mind just speak up a little bit, I think some of the people behind me are having difficulty?---Is that better?

Thank you. The exact same figure of 18.23 hours a week appeared in Quad's tender in relation to the Bellevue Grandstand did it not?---Yes.

Do you agree that it's extraordinary that a figure which was an error in the University benchmarks found its way into Quad Services' tender?---Not if that was done by Quad and used by the University to work out their own benchmark, no.

30 I'm sorry, I don't think I quite understand your answer?---Sorry. What I'm suggesting is that that figure was actually developed by Quad and that Rochelle Slade actually used that as her basis to formulate her own – for the benchmarking for the University.

Well, so far as you're aware was the figure of 18.23 hours developed by Quad?---As far as I'm aware, yes.

40 Right. And can you just describe briefly the process by which, as you understand, excuse me, as you understand it that figure of 18.23 hours a week was developed by Quad for the Bellevue Grandstand?---I can't give you an exact because I wasn't involved in the process but I guess as an overview my understanding was that that was – that was new, it was being built, we cleaned it several times and that's how we came up with the figures.

Do I understand that answer to – I withdraw that. Is it fair to say then that the figure that Quad developed of 18.23 hours a week was based principally on Quad's experience on the ground cleaning that facility?---Yes, I would

put that down and also then in terms of – I would think in checking with David Schmude in terms of when he’s done the estimation, yep.

Quad Services had been charging the University for cleaning the grandstand after the grandstand was built, is that right?---I would, yeah, if we cleaned it, yes, the answer would be yes.

It was built at some stage in 2009, correct?---I couldn’t confirm when but I’m assuming that’s correct.

10

Right. In any case it wasn’t –it didn’t exist when Quad Services first entered into its contract with the University in 2005?---Not that I’m aware of, no.

Quad Services charged the University for the cleaning of the grandstand as an additional element of work under the contract, is that right?---I couldn’t confirm that, I wouldn’t know.

You don’t know about those arrangements?---No.

20

Just assuming for a moment that the University, specifically Ms Slade, had a view that the grandstand would take 18.23 hours per fortnight to clean - - -? ---Yep.

- - - and Quad Services took the view that it, in fact, took 18.23 hours per week to clean. Just make that assumption for a moment?---Okay.

And if you could also assume please that Quad Services has been cleaning the grandstand for some months prior to submitting its tender in 2010. Can you assume that?---Yep.

30

Isn’t it likely that that discrepancy in views about how long it should take to clean the grandstand that I’ve asked you to assume isn’t it likely that that would’ve been the subject of some debate between Quad Services and the University prior to January 2010?---I don’t know. I wouldn’t know whether that was or wasn’t, I wouldn’t be able to give you an answer on that. I just wouldn’t know.

You see, is the effect of your evidence that you say that Quad Services happens to come up, happened to come up with the figure of 18.23 hours per week whereas the University came up with the exact same figure per fortnight, albeit they recorded it as a weekly figure in their internal benchmarks?---Yes. I mean, we worked our figures. That would have been done by Dobrilla, it would have been done in conjunction with, with Bill at the time when we were cleaning the place so, yeah, yes.

40

You understand how it looks very much like there must have been some communication between Quad Services and the University about that

particular figure at least?---I would, yes, given the simple fact that they were the same, the answer's yes.

And not just the fact that they were the same but the fact that they were the same notwithstanding the error in the University's figures?---Well, I don't know because I don't understand what the error was apart from that they were identical figures and one was, one was weekly and one was fortnightly but I haven't got in, in terms of understanding what that was.

- 10 The Commission has heard evidence that the 2009 tender was ultimately cancelled by the University, was that your understanding?---Yes.

Did you have any understanding about the reasons why it had been cancelled?---No, only other than it was some internal decision so apart from that we don't know.

- 20 Before it was cancelled did you seek to obtain any information about the decision-making process from Mr McCallum?---I may have written a letter at some stage but I can't tell you when that was asking - because it had been going on for some time as to whether there had been a decision or what was the story because our contract, we'd been given an extension I think and that extension was coming up to expiry. We had staff asking apparently what was happening so I seek clarification in terms of what was happening with the tender. But I can't tell you whether that was or when that was.

Did you have any understanding in about March 2010 about whether the Tender Evaluation Committee at the University had made any recommendation about the award of the tender?---No.

- 30 So far as you're aware did anybody else at Quad Services have any knowledge about the, about whether or not the tender committee had made a recommendation as at March 2010?---Not that I'm aware.

Do you recall that the University proceeded with a fresh tender and that that process started about the middle of 2010?---I remember, yes, that they started the fresh tender. I'm assuming it was the middle of 2010, it was some time during that period.

- 40 You had dinner with Ms Cutler and Mr McCallum on 23 July, 2010. Do you recall that as being one of the occasions on which you - -?---Oh, I didn't, I don't, I don't recall the specifics but yes, I, I would expect it would be on my expenses so, yeah.

Would you like me to take you to your expense document so you can clarify the date and - -?---No, I think that'd be fine.

And I want to suggest to you that that dinner was arranged in view of the forthcoming tender that the University was to issue for the cleaning contract?---No, I would suggest no.

I'm suggesting that one of your purposes in arranging or attending that dinner was to seek to cement a great relationship rather than a good relationship with Mr McCallum before that tender process commenced?  
---I think we already had a great relationship so I don't think the purpose of that was to, was to do anything, there is no difference in the relationship that was already there.

Well in your words what was your purpose in attending that dinner in July 2010?---I would think it was just – I'd either gone up there and – again I went up – I went overnight. I would normally inspect the University, make sure that what we're doing was, was – they were happy with and then we would have had dinner. I can't give you specifics as to why we would have had the dinner apart from the fact that I was up there.

And you referred to your expenses. You were reimbursed so far as you recall by Quad Services for that dinner?---Yes.

That's correct?---Yep.

And to the extent that Ms Cutler incurred expenses entertaining Mr McCallum over the years from 2005 to 2011, you're aware aren't you that Quad Services reimbursed her for those costs?---Yes.

You would typically sign off on her expense forms?---Yes.

And to the extent that Mr Turner incurred expenses for that kind of entertainment or providing beers for FMS Friday afternoon drinks, you understood that Quad Services was reimbursing him for that?---Yes.

And the purpose of all of that entertainment was to cement the great relationship as opposed to simply having a good relationship with Mr McCallum wasn't it?---Certainly to, to ensure that we had a relationship with the client and that they were, that we understood whether they were happy with the service that we provided. Ultimately it's about – I don't think I've had a client that's been unhappy with a service that would accept a lunch. They just in the main won't do it. They have to be really happy with the job we're doing before going out in the main.

But you as Chief Executive Officer were hoping weren't you that one of the benefits of that great relationship flowing to Quad Service might be additional work provided or offered to Quad Services by the University, for example?---I think additional work would come if we were doing a terrific job. That was - - -

According, I'm sorry, you finish your answer?---You're right. I was just going to say that comes with providing a quality service. If we're not providing a quality, sorry, if we're not providing a quality service we're not going to get additional work.

Mr Yardley, I'm not suggesting that you could have received – that you weren't – I'll withdraw that. I'm not suggesting that you weren't striving to provide a quality service?---Ah hmm.  
Do you understand that?---Yep.

10

What I'm suggesting is that the lunches and the dinners with Mr McCallum were directed to ensuring that you not only had a good relationship with him as quality service providers, but to put the icing on the cake to make it a relationship where Mr McCallum might be inclined to offer additional services to Quad, additional work to Quad Services. Do you agree with that?---I think certainly to ensure a great reference, sorry, a great relationship but, but again I think any additional work would have only been on the basis that we provided a quality job. If we didn't provide a quality job forget about any additional work even if he was taken out for lunch. It wouldn't occur.

20

Well in answering that question you're telling how you think Mr McCallum might have been motivated. I'm asking you what your purpose was in extending this hospitality to Mr McCallum on behalf of Quad Services?  
---Ensuring that the client was happy with the work that we were providing and understanding that.

30

ASSISTANT COMMISSIONER: How would going to dinner make him happy with the work?---It's about, it's about understanding that person as a person. We're in, we're in a relationship in terms of dealing with, with this client and it's about understanding the nature of that client.

Sorry, I don't really understand that answer at all. You could go up and have a meeting with him and discuss the work, are you happy with the work?---Yes, which was done.

Yes?---Yeah.

40

It doesn't require a dinner or a social outing?---No.

So what was the purpose of the dinner?---I guess to get to know him better.

Well how did that assist your business?---Well I guess in terms of understanding and knowing the client and assist us because we're dealing with them all the time. We're dealing – in cleaning we're dealing with a client on a very regular basis. It's not like the management people are seeing them once every year or something. It's regular, it's ongoing. If we

don't have a cordial relationship, if we don't get on well with each other then, then how do you solve problems?

And also he might not be inclined to recommend you for another contract?--  
-Sorry if?

If you didn't get on well he might be inclined to recommend somebody else for the contract?---No, I think he, I think he'd be inclined to recommend someone else if we weren't providing a quality service.

10

Yes, well, we're going around in circles here, Ms Williams. I'll let you carry on.

MS WILLIAMS: I don't think I can take it much further, Commissioner.

ASSISTANT COMMISSIONER: No, no.

MS WILLIAMS: I have no further questions for Mr Yardley at this stage but there is another matter that I may need to raise with him following some  
20 further inquiries and I would ask that he not be excused entirely from the summons but I have no further questions at this stage.

ASSISTANT COMMISSIONER: Yes. Well, at this stage, Mr Yardley, you are stood down but you're not excused from the summons. You may be required to attend again, possibly later today. Thank you, you may leave the witness box.

30

**THE WITNESS STOOD DOWN**

**[12.21pm]**

MS WILLIAMS: Commissioner, one matter I should have raised I submit that it would be appropriate for you to make an order under section 112 of the Independent Commission Against Corruption Act in respect of Mr Yardley's evidence concerning the email at page 294 of Exhibit 3 and the documents that have been marked for identification as MFI 3.

ASSISTANT COMMISSIONER: Yes. Well, I direct that at this stage any  
40 of the evidence given by Mr Yardley about the email dated 19 January, 2010 and its attachments shall not be published by any person.

**SUPPRESSION ORDER ON ANY OF THE EVIDENCE GIVEN BY  
MR YARDLEY ABOUT THE EMAIL DATED 19 JANUARY, 2010  
AND ITS ATTACHMENTS**

MS WILLIAMS: Commissioner, I propose next to call Mr McLean but might I apply for a short adjournment of five or 10 minutes while I, I just raise one matter with the investigators about (not transcribable).

ASSISTANT COMMISSIONER: Yes, we'll adjourn for five minutes.

MS WILLIAMS: Thank you, Commissioner.

10 **SHORT ADJOURNMENT**

**[12.22pm]**

ASSISTANT COMMISSIONER: Thank you, please be seated.

MS WILLIAMS: Commissioner, I call Mr Martin McLean who is already seated in the witness box.

20 ASSISTANT COMMISSIONER: Yes, thank you, Mr McLean. Now, Mr McLean, as you know you've been called here to give evidence, you are required to answer all of the questions asked of you. You are entitled to seek a declaration the effect of which would be that nothing you say can be used against you. Does your client wish to seek such a declaration?

MR BOURKE: Yes, Commissioner, he does seek a declaration, thank you.

30 ASSISTANT COMMISSIONER: Mr McLean, the effect of this declaration will be that nothing you say can be used against you in any future proceedings, however, the exception to that is if it is found you have breached the Act by providing false or misleading evidence or in some other way. Do you understand the effect of that order?

MR McLEAN: Yes, I do, Commissioner.

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

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

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

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

MR McLEAN: I'll make an oath.

10 ASSISTANT COMMISSIONER: Yes. Could the witness be sworn please.

ASSISTANT COMMISSIONER: Thank you. Yes, Ms Williams.

MS WILLIAMS: Mr McLean, just for the record could you state your full name and address please?---Martin John McLean. XXXXX

10 And what is your position with Sydney Night Patrol and Inquiry or SNP as it's known I believe?---I'm the Branch Manager of regional New South Wales.

And you've held that position since about 2005, is that correct?---No, I think 2005 I was Operations Manager and somewhere in that period I became the Branch Manager of Protective Services which is the man power side then I think about December 1 of last year I became the official Branch Manager over all areas of our business for regional New South Wales.

20 Thank you. But in all of those positions you've been concerned with regional New South Wales, is that correct?---Yes, correct.

And in all of those positions has the University of New England in Armidale fallen within your geographical area of concern?---Yes, it has.

And SNP is in the business of providing security services?---Yes, correct.

And it has done so for the University of New England since about November 2005, is that right?---Ah, yes.

30 And that was under a contract entered into on or about 1 November, 2005, correct?---Yes.

Under that contract SNP provides security guards for the University?---Yes.

Those guards provide emergency responses to any alarms that might go off, correct?---Part of their duties, yes.

40 They also provide emergency response to any incidents that occur that require security assistance?---Yes.

And to any first aid incidents?---Ah, yes.

Under the contract SNP provides a seven-seater vehicle to the University? ---Yes.

And that vehicle is used by the security officers to transport students safely around the campus at night-times?---I think it's called the night ride service but primarily yes, the accommodation colleges are located oh, a fair distance

away from the main building so the bus was used, used to transport those students.

And during the first couple of years of the contract from November 2005 until about the middle of 2007 that bus was also used wasn't it to transport the security guards around the campus to perform their duties that I've referred to?---Oh, on occasion, yes.

As and when necessary?---Yes.

10

And in about late 2006 or early 2007 SNP also commenced providing audio visual technical services to the University, is that right?---I can't remember the exact dates but yes, we, we did provide an AV technician.

And that technician needed to be transported around the campus from time to time to different locations, is that right?---Yes.

20

And from the time that SNP starting providing those audio visual services the seven-seater vehicle that I've referred to would also be used as and when necessary to move the technician around the campus?---Yes.

In about February 2007 SNP responded to a Request for Expressions of Interest that the University issued to provide mail services?---Yes.

30

Do you remember that? And is it your understanding that SNP were invited to provide an expression of interest because you had indicated to Mr McCallum that SNP might be interested in performing work other than security services?---Oh, a general practice of mine is, with all our clients, to try and have a look at what else we could do within the sites. I, I think I'd made it known but I can't be specific when to Mr McCallum that obviously SNP is, is capable of providing other services other than just security.

Could Mr McLean be shown volume 6 please, open at page 91?---Thank you.

Mr McLean, when you've had a chance to look at that page I'll ask you do you recognise that as an extract from SNP's expression of interest to provide the mail services to the University?---Yes.

40

And do I read the document correctly that the total price SNP was indicating in its expression of interest was \$363,000-odd, is that correct?---Yes.

And do you see there the University date stamp of 20 March, 2007?---Yes.

I suggest to you it follows that you submitted the tender on or about that day, do you agree with that?---The expression of interest?

I'm sorry, the expression of interest, you're quite right?---Yes.

And did you have a conversation - I withdraw that. Prior to SNP submitting the expression of interest did Mr McCallum give you any indication that SNP would be invited to submit a tender?---Oh, I can't recall if we had any conversation prior to the expression of interest being lodged.

You understood that the expression of interest was in effect stage 1?  
---Normally expressions of interest are of that nature.

- 10 And that the University would then decide which of the companies who had submitted an expression of interest would be invited to tender. Correct?  
---Yeah, correct.

Could you go to page 216 of volume 6, please. Do you agree with me that that's an email from you to Yan Wang?---Yes.

And Yan Wang was an employee of SNP responsible for - - -?---She's the tender manager.

- 20 I see. And I want to ask you in particular about the first sentence of that email. Could you just read that to yourself, please. Now having read that sentence do you recall whether or not Mr McCallum had indicated to you before SNP submitted the expression of interest that SNP would be invited to tender for the mail services?---No, I can't recall.

- All right. In that first sentence of the email you're communicating to Yan Wang aren't you that provided you just handwrite the figures in the expression of interest document that will be enough to get SNP invited to the actual tender process?---I think I'm - I can't remember the process but  
30 by this section here Yan was very - what can I say, focused on how we presented our documentation. In the schedule there's room that you could handwrite instead of having to reproduce the schedule completely in like a Word document, you could handwrite the figures in within that document. And then - I'm only assuming that I'm saying to Yan that that's enough, don't worry to go reproducing the Word document and putting it in electronically because I think we've got limited time.

- But what you're saying to, to Yan, in the first instance is I have spoken to the contact at UNE. Correct?---Yep.  
40

Who was that contact?---I can't recall, I would suggest that it would either be Col McCallum or our site supervisor.

And your site supervisor was that Mr Richey at the time?---I think at the time it was Jason Richey.

All right. In any event the site supervisor was an employee of SNP. Correct?---Yes.

So it's more likely isn't it that your reference to the contact at UNE means the contact with the client rather than your own employee. Correct?---I can't recall having a conversation, sorry.

10 See your site supervisor at UNE wouldn't have been in a position would he to tell you that if you just hand wrote figures in that would be enough to get you invited to the tender?---But potentially if he had a conversation with the client. But I can't recall having a conversation with either my supervisor or the client in regards to this email.

ASSISTANT COMMISSIONER: Well I take it by that you agree this information could only have come from the client?---Potentially so.

Well they would be the only ones who'd know what their requirements were for their, for the EOI?---Yes, that would be correct.

Yes.

20 MS WILLIAMS: Mr McLean, I'll just remind you that the date stamp on the expression of interest paper we saw was 20 March, 2007. Do you remember meeting with Mr McCallum about SNP's expression of interest in Newcastle on 29 or 30 March, 2007?---I can't recall the dates but I remember we did have a meeting.

And do you remember that SNP revised the price that it wanted to put to the University in its expression of interest as a result of that meeting?---I believe it was in line with addendum 1 that was produced for this tender.

30 The addendum 1 you're referring to was that a letter from the University to you?---It was to SNP, but I'm not sure if my name was on it.

I see. To SNP?---Yeah. I've seen -- I can't remember that document but I've seen it within the documents that have been tendered here during this hearing.

Yes. I understand the document you're referring to. That document and I'll try and have it brought up, but in fact I think if you turn to page, sorry, volume 6 page 100. Is that the document you're referring to?---Yes.

40

And is it your evidence that SNP reduced its price as a result of the matters set out in this particular document?---Yes, that's correct.

And that Mr McCallum made these matters known to you during those meetings on 29 and 30 March 2007?---Yes.

Is it the case that Mr McCallum also explained to you the nature of what was involved in the mail services that SNP was bidding for?---Yes, to the best of his knowledge, yes.

And did that explanation also result in a reduction to some parts of the price?---Yes, he was outlining the adjustments that had to be made to the original scope as per point 5 of that addenda the removal of the Goods and Despatched Services.

10 The Goods and Despatched Services was treated as something separate from the mail services, that's correct isn't it?---Well, originally I think it was all in the one tender, I can't remember the specifics but that was removed prior to going to the tendering stage. Or that's what it looks like, sorry, I can't remember but that's what this document refers to I think.

What I'm suggesting to you is that the reduction in price that SNP made after the meeting on 29 or 30 March 2007 was in the order of \$83,000, do you recall that?---I can't recall the figures or anything but that's been put to me and there was a reduction.

20

Did part of that reduction relate to the staff costs for the mailroom?---I think so.

And the staff costs for the mailroom that was a separate issue to the issues referred to in this letter at page 100 isn't it?---I can't recall but the only other reference I have in regards to this matter is an email that I forwarded to our CFO in response to his questions asking why the figures had dropped and my explanation was is that originally it was five staff, a truck, a forklift et cetera and they're now removed and there's a variation in place that it's only this amount of money now.

30

Right. Did you – I withdraw that. Did Mr McCallum give you any information during the meeting on 29 or 30 March 2007 about how far apart your price was compared to other companies who had submitted an expression of interest?---Not at all.

Did he convey to you any information about the extent to which or an amount by which SNP would need to reduce its price in order to be invited to tender?---Not at all.

40

Ultimately SNP did submit a tender?--- Yes.

And the price submitted was in fact lower again, it came down to about 153,000 per annum in total, do you agree with that figure?---If it's within our tender submission I would agree.

Do you remember that one of the features of the tender submission was that SNP would be able to achieve some efficiencies by using resources already available for the security services - - -?---Correct. Yep.

- - - using those same resources for the mail services?---Yes.

If you turn to page 101 of volume 6. Do you see there the first page of SNP's tender for the mail services?---Yes.

10 If I can just get you to flick through to page 130, just satisfy yourself that that's all part of the same document?---Yes.

Have I understood correctly that the total figure referred to in the table at the top of page 130, 153,000 is SNP's price per annum submitted in its tender? ---Yes.

20 Now, SNP's proposal to use the seven-seater vehicle that was used for the security services for the purpose of delivering mail I just want to ask you some questions about that particular aspect of the proposal?---Yep.

And if you need to refer to the tender document please indicate that?---No, it's okay.

The vehicle that was to be used to deliver mail was going to need to be on the run constantly delivering mail for the best part of each day wasn't it? ---Yes.

30 Between the hours of about 9.00 in the morning and 3.00 in the afternoon? ---Yes. I think it's a little bit later than that, 3.30 or something like that.

All right. And if the seven-seater security vehicle was used for delivering the mail it would therefore be unavailable to move security guards around the campus as and when necessary to perform their duties during the daytime, correct?---The intent of the vehicle being used for a dual purpose was that the vehicle would be fitting with a two-way radio and then have the, all staff be licensed security guards so therefore anyone could respond at any time, depending on who was in the closest proximity.

40 I see?---I, I forwarded an email to Mr McCallum outlining that entire, our intent on doing that.

Do you have a copy of that email or you're just recalling it?---Oh, I've, I've seen it recently. I don't know, I don't think I've got it, I, I can get it but I don't have a copy with me at the moment.

All right. Well, perhaps if you can make some inquiries during the lunch break?---Yes.

But in any event there, you realised didn't you before SNP in fact started providing the mail services on the campus that that dual use arrangement for the seven-seater vehicle was not going to work?---Not necessarily because when we - and it's outlined in my email - it states how we were going to actually potentially provide a better service and that is being that we had a vehicle that was assigned fully with SNP, it's like a mobile billboard that's going to be circulating the campus more often than not because previously it was probably under utilised sitting by the security office. Now, as it was going around campus it gives an enhanced, ah, ah, what can I say, appearance of security but at the same time had people (not transcribable) or their mail officers who potentially would be security officers having the ability to respond to situations and that's why the two-way radio had to be fitted to the vehicle.

And the price of \$153,000 that I've taken you to on page 130 - - -?---Yes.

- - - that reflected the same vehicle being used for the security and the mail functions, didn't it?---Yes.

20 And it included only a \$3,000 component to make some alterations to the existing vehicle rather than a charge for a whole new vehicle?---Yes.

And the University accepted that price?---Yes.

And it was on that, on the basis - - -

ASSISTANT COMMISSIONER: I'm sorry. Yes, that proposal doesn't seem to refer to the cost of putting in a two-way radio. It says the cost will be for a cargo barrier and foldaway seating?---Yeah.

30 So when did the idea of the two-way radio come up?---I couldn't tell you the exact dates but I, I've seen reference to it in correspondence.

So do you think it was after this tender was (not transcribable)?---Oh, I, I can't recall, sorry, Commissioner.

Was the two-way radio put in?---To my understanding, yes.

Yes, Ms Williams.

40 MS WILLIAMS: And just putting to one side for a moment exactly when this occurred but you came to realise, didn't you, that the use of the vehicle for the mail and the security simultaneously was not working, is that right? ---I think what's happened - and I can't recall if we're talking about the location - oh, sorry, the deployment of the Toyota Yaris to the site, I can't recall the, the circumstances or the specific discussions on how that occurred, all as I can refer to is any of my correspondence in regards to it which refers to it as the AV technical, AV technician vehicle.

All right. Could you turn please to page 164 of volume 6. Ms Karen Lovell was your Executive Assistant during June 2007. Is that correct?---Yes.

And I want to suggest to you before we get into this area, in fact that the, the date on which SNP started performing the mail services at the University was 23 July, 2007?---I can't recall the exact dates, but it would be around that time.

- 10 To be fair to you if you turn to the previous page 163, this is not your document, it's a University document raising a or requisitioning a purchase order to pay SNP for the mailroom services and can you look please at the section of the table summary of quotations which says brief description and you see the handwritten words there mailroom operations 23 July, 2007 to the end of that year?---Yep.

Having seen that document are you comfortable with the suggestion I've put to you that that was the date on which SNP started performing the mail services?---Yeah. Yes.

20

So going back to page 64, at the bottom of that page do you agree with me that on 21 June Ms Lovell made some urgent inquiries to price a Toyota Yaris?---On page 165, sorry?

164 over to 165?---Yes.

And Ms Lovell's inquiry was directed to Alan Lee who was a Fleet Manager with SNP, is that correct?---Yes.

- 30 And Ms Lovell's would've been made would it at your request?---Yes.

Did that Toyota Yaris relate to the – was that the vehicle that was ultimately supplied to the University?---We have a large fleet but I could suggest – timing-wise I'd suggest that it could've been.

And did you yourself drive the Toyota Yaris up to the University of New England when it was obtained by SNP?---I can't recall exactly, I've taken vehicles up there but I can't recall if it's exactly this vehicle or not.

- 40 Do you happen to know the registration number of the Toyota Yaris that was supplied to the University?---No. No.

If you look at page 171. Does that document indicate to you that a Toyota Yaris vehicle was supplied to SNP Security on 6 July 2007?---Yes.

Supplied by Custom Service Leasing?---Yes.

And I'm suggesting to you that that's the Toyota Yaris that was subsequently delivered to the University of New England?---It could be, yes.

Now, SNP charged the University for this Toyota Yaris vehicle?---Yes, we did.

10 And it invoiced those charges to the University on the invoices submitted under the security contract. Is that correct?---The – I think, I think it was listed as alarm service work. I think – but if it was part of the security contract I'm not sure.

All right?---I'm not aware of what purchase orders were listed against the vehicle on their invoice, sorry.

20 I'm suggesting to you that SNP issued an invoice to the University relating to work done for security and audio visual services?---The audio visual service was a separate line because it was a separate position that came on after the security contract. The security contract was a lump sum fee, which was separate to all the other additional services that came on. The AV technician was one of those services. There were several others that came on after the initial security contract was let.

All right. Commissioner, I'm sorry, is that a convenient time before we get bogged down in this?

ASSISTANT COMMISSIONER: Yes. This hearing will resume at 2.00pm.

30

**LUNCHEON ADJOURNMENT**

**[12.59pm]**