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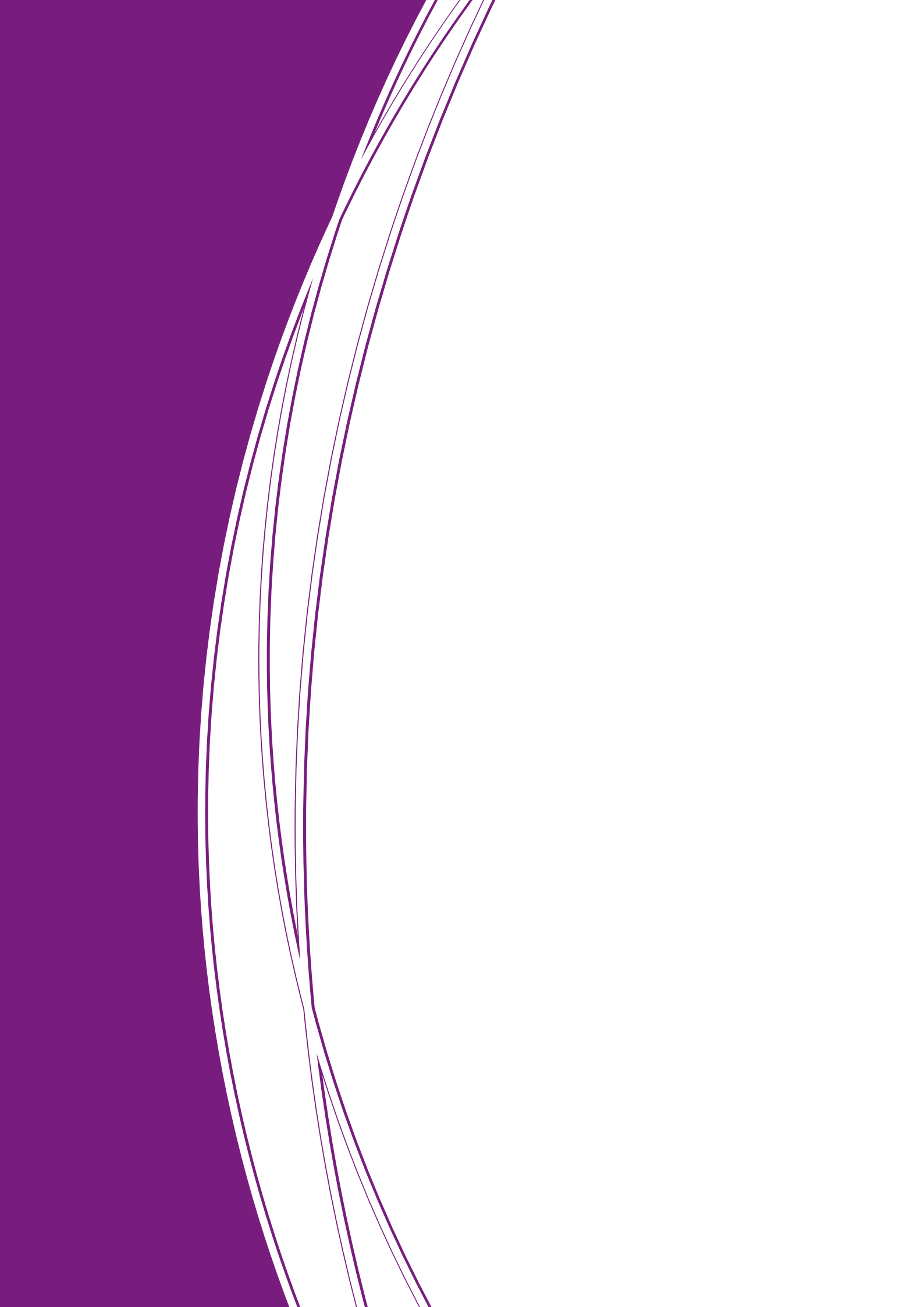
INDEPENDENT COMMISSION AGAINST CORRUPTION

REPORT ON CORRUPTION IN THE PROVISION AND CERTIFICATION OF SECURITY INDUSTRY TRAINING

ICAC REPORT
DECEMBER 2009



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Madam President
Mr Speaker

In accordance with section 74 of the *Independent Commission Against Corruption Act* 1988 I am pleased to present the Commission's report on corruption in the provision and certification of security industry training.

The former Commissioner, the Hon Jerrold Cripps QC, presided at the public inquiry held in aid of this investigation.

The Commission's findings and recommendations are contained in the report.

I draw your attention to the recommendation that the report be made public forthwith pursuant to section 78(2) of the *Independent Commission Against Corruption* Act 1988.

Yours faithfully

The Hon David Ipp AO QC
Commissioner

Contents

Executive summary

The investigation

This report concerns an investigation conducted by the Independent Commission Against Corruption ("the Commission") into allegations that persons employed by or involved with registered training organisations ("RTOs") provided improper assistance to candidates with respect to the delivery of training, the conduct of assessments and the issuing of certificates connected with security training courses.

Persons wishing to engage in security activities in New South Wales must first possess a security licence issued by the Security Industry Registry ("the SIR"). Licensing of persons by the SIR depends upon proof of their satisfactory completion of security training delivered by RTOs approved for this purpose by the SIR.

On 1 September 2007 amendments to the *Security Industry Act 1997* (NSW) ("the Security Industry Act"), were introduced to increase specialisation within the security industry and upgrade the skills of security officers. The legislative changes meant that security officers wishing to apply to the SIR to retain their security licence had to first undertake training as part of an upgrade process.

The Commission's investigation arose out of a report received on 31 October 2008 from the SIR that trainers at Roger Training Academy ("Roger"), an RTO, were providing improper assistance to candidates undertaking training as part of the upgrade process and issuing certificates of competency to these candidates in the absence of a proper assessment of their competency. Concerns were also expressed about the assessment practices at other RTOs delivering security training.

Allegations about improper conduct by trainers at Roger were serious, and if established, could constitute corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* (NSW) ("the ICAC Act"). The Commission determined that it was in the public interest to conduct an investigation into these allegations and to examine whether other RTOs and providers of security services were knowingly involved in the provision of improper assistance to security officers undertaking training courses.

In the course of its investigation the Commission conducted a controlled operation, executed search warrants on the business premises of Roger, obtained documents and information by issuing notices under sections 21 and 22 of the ICAC Act, made use of lawful covert physical and electronic surveillance including lawful telecommunication intercepts and interviewed and took statements from a large number of people involved in the security industry. The Commission also took evidence from five witnesses during compulsory examinations and held a public inquiry over nine days between 24 August 2009 and 11 September 2009. Twenty-eight persons gave evidence at the public inquiry and the Hon Jerrold Cripps QC, Commissioner, presided.

The Commission's findings and section 74A(2) statements

The Commission's findings are set out in Chapter 4.

Ahmed Moosani is the owner and principal of Roger. In 2005 he formed Roger for the purpose of delivering security training. In February 2006, the SIR conditionally approved Roger to conduct training and assessment in relation to security training courses. Mr Moosani employed his brother-in-law, Ali Merchant, as Operations Manager at Roger and a number of former security officers, including Hamdi Alqudsi, Dru Hyland and Shane Camilleri, to deliver training and conduct assessments in relation to security operations courses.

Between 1 September 2007 and 9 March 2009 approved training organisations issued 44,680 training certificates. Of these, around 26% were issued by Roger– one of 28 organisations approved by the SIR to conduct security training and assessment.

The Commission found that Ahmed Moosani, Ali Merchant, Hamdi Alqudsi, Dru Hyland and Shane Camilleri improperly assisted candidates enrolled in security training courses at Roger by providing them with the answers to a written test which formed part of the evidence upon which the candidate's competency in security-related activities was assessed and then knowingly issued or caused to be issued certificates to

these candidates which falsely represented that prescribed competencies had been demonstrated.

Mr Moosani made substantial profits from his misconduct. Commission enquiries into Mr Moosani's financial affairs revealed that $1.3 million was deposited into his personal account in 2008 and 2009. Mr Moosani told the Commission that apart from a small income that came from his wife's grocery business the remainder of the $1.3 million came from Roger. The Commission has furnished information to the NSW Crime Commission to enable the Crime Commission to consider taking proceedings under the *Criminal Assets Recovery Act 1990* (NSW).

Corrupt conduct findings are made against Messrs Moosani, Merchant, Alqudsi, Hyland and Camilleri.

Findings of corrupt conduct are made against Vivek Raghavan from Security International Services ("SIS"), Craig Wheeler from Security Industry Brokers ("SIB"), and Tibi Brandusoiu in relation to their role in facilitating the corrupt conduct engaged in at Roger. Findings of corrupt conduct are also made against persons who knowingly obtained certificates of competency from Roger which falsely represented that they had demonstrated prescribed competencies and used the certificates in applying to the SIR for security licences, namely Nick Bosynak and José Sanz.

The report contains statements, pursuant to section 74A(2) of the ICAC Act, that the Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions ("DPP") with respect to the prosecution of Messrs Moosani, Merchant, Alqudsi, Hyland, Camilleri, Wheeler, Brandusoiu and Raghavan for various criminal offences.

In addition, the Commission recommends that the SIR consider revoking the security licences of Nick Bosynak and José Sanz.

Corruption prevention

In Chapter 5 of this report the Commission explores the factors that facilitated the corrupt conduct engaged in at Roger and allowed it to continue undetected and unimpeded by the SIR and the New South Wales Vocational Education and Training Accreditation Board ("VETAB"), the regulators of security industry training

In this chapter the Commission considers how the security licence upgrade process has failed in its objective to weed out incompetent and undesirable RTOs and security officers. The Commission also considers how the evidence of corrupt conduct and poor quality recognition of prior learning ("RPL") assessments uncovered during this investigation raises real doubts about the legitimacy of all current security licences in NSW and the integrity and competence of all security training providers.

The Commission also examines the fragmentary and confused state of the current regulatory system and the lack of means for regulators to identify which current security qualifications are legitimate, which RTOs are corrupt, incompetent or lazy, and which are ethical and legitimate security training providers.

In Chapter 5 the Commission makes the following 16 recommendations designed to address the fundamental regulatory problems besetting the industry.

Recommendation 1

In relation to security training, assessment and certification, the NSW Commissioner of Police should assume ultimate responsibility for all integrity-related functions, including:

a. corruption prevention

b. corruption risk management

c. fraud and corruption investigation and detection.

Recommendation 2

The compliance, inspection and data review processes of the Security Industry Registry ("SIR") should be expanded and improved to give the SIR the capacity to detect fraudulent or inadequate training practices by registered training organisations ("RTOs").

Recommendation 3

The SIR should be given sufficient, dedicated staffing and other resources to implement Recommendations 1 and 2 without reliance on staff from other sections of the NSW Police Force, the Vocational Education and Training Accreditation Board ("VETAB"), the approved security industry associations ("ASIAs") or any other organisation.

Recommendation 4

In relation to literacy and numeracy testing for security licence applicants:

a. it should not be conducted by RTOs providing security training

b. the SIR should facilitate the development of a standard literacy and numeracy test

c. this test should be administered by an approved government provider selected by the SIR.

Recommendation 5

The SIR should independently test the knowledge of applicants for security licences prior to the issue of the licence. This testing could include:

a. random computer-based knowledge testing such as is used by the Roads and Traffic Authority to test driver knowledge, and

b. scenario-based interviews conducted by SIR staff.

Recommendation 6

The SIR should take steps to determine the validity of all security qualifications granted during the upgrade process. RTOs currently approved to provide security training should not be involved in this assessment process. Some methods that could be considered in this regard include the measures described in Recommendations 4 and 5 above.

Recommendation 7

The SIR should comprehensively review all RTOs currently approved to provide security training to determine:

a. their level of competence and compliance during the licence upgrade process

b. whether their security trainers meet the competency levels required by the Certificate IV in Training and Assessment and the Certificate IV in Security and Risk Management

c. whether the RTO merits continued approval to conduct security training.

Recommendation 8

The SIR should:

a. conduct a comprehensive corruption risk assessment of the corruption risks present in security training and licensing. This risk assessment should include but not be limited to:

   i. analysis of the risks associated with outsourcing security training to private training providers

   ii. analysis of the risks associated with any new procedures the SIR may introduce to test security licence applicants or review RTOs

b. develop a corruption risk management plan describing the corruption risks identified and the strategies the SIR will adopt to manage each of these risks.

Recommendation 9

In relation to VETAB's audit and compliance practices:

a. VETAB should improve its audit and monitoring of RTOs to ensure early detection of training, assessment or recognition of prior learning ("RPL") not conducted in accordance with the Australian Quality Training Framework ("AQTF") standards

b. where VETAB identifies training, assessment or RPL not conducted in accordance with the AQTF standards, it should take prompt and effective action to gain compliance within a specified timeframe

c. where compliance does not occur within the specified timeframe without good reason, VETAB should take immediate disciplinary action against the RTO.

Recommendation 10

In future, VETAB should provide the SIR with:

a. a copy of all VETAB audit reports concerning RTOs that provide security training

b. any information received from complaints or any other source that relates to the integrity of security training.

Recommendation 11

The NSW Police Force and the Department of Education and Training should make all managers and senior officers aware of :

a. the definition of corrupt conduct under the *Independent Commission Against Corruption Act 1988*

b. the jurisdiction of the Commission, and

c. the requirement to report suspected corrupt conduct under section 11 of the *Independent Commission Against Corruption Act 1988*.

Recommendation 12

The NSW Police Force and the Department of Education and Training should have internal reporting mechanisms in place that ensure that principal officers are made aware of and report matters within the jurisdiction of the Commission under section 11 of the *Independent Commission Against Corruption Act 1988* at the earliest possible time.

Recommendation 13

The Office of Liquor, Gaming and Racing ("OLGR") should review the validity of all Responsible Service of Alcohol ("RSA") and Responsible Conduct of Gaming ("RCG") certificates and statements of attainment issued through Roger Training Academy since 2006.

Recommendation 14

The OLGR should reduce the likelihood of fraud in the issue of RSA and RCG certificates by:

a. conducting a comprehensive corruption risk assessment of the corruption risks present in RSA and RCG training and licensing. This risk assessment should include but not be limited to:

   i. analysis of the risks associated with training by private training providers

   ii. analysis of the risks associated with any new procedures the OLGR may introduce to review RTOs

b. develop a corruption risk management plan describing the corruption risks identified and the strategies the OLGR will adopt to manage each of these risks.

Recommendation 15

WorkCover NSW and VETAB should liaise in order to advise the Commission of the following:

a. which agency will take responsibility for reviewing the validity of all First Aid certificates issued through Roger Training Academy since 2006

b. how this review will be conducted

c. that the responsible agency will undertake to notify the SIR Registrar of any First Aid certificates found to be invalid.

Recommendation 16

WorkCover NSW should reduce the likelihood of fraud in the issue of First Aid certificates by:

a. conducting a comprehensive corruption risk assessment of the corruption risks present in First Aid training. This risk assessment should include but not be limited to:

   i. analysis of the risks associated with training by private training providers

   ii. analysis of the risks associated with any new procedures WorkCover may introduce to review RTOs

b. develop a corruption risk management plan describing the corruption risks identified and the strategies WorkCover will adopt to manage each of these risks.

As part of the performance of its statutory functions, the Commission will monitor the implementation of these recommendations.

The recommendations will be communicated to the SIR, VETAB, the NSW Police Force, the Department of Education and Training, the Office of Liquor, Gaming and Racing and WorkCover NSW with a request that an implementation plan for the recommendations be provided to the Commission. The Commission will also request progress reports and a final report on the implementation of the recommendations.

These reports will be posted on the Commission's website, www.icac.nsw.gov.au, for public viewing.

Chapter 1: Introduction

This report concerns the Commission's investigation into whether persons employed by or involved with registered training organisations ("RTOs") provided improper assistance to candidates with respect to the delivery of training, the conduct of assessments and the issuing of certificates connected with security training courses.

The security industry in New South Wales is responsible for providing security in significant ways – for example at airports, hotels and concerts, and also at government facilities, including army bases. The Commission's investigation found that corrupt conduct in connection with the certification of security officers resulted in a significant number of those officers engaging in security activities, some of which posed risks to their own and public safety, without having undertaken appropriate levels of training.

The Commission's investigation arose out of a report received on 31 October 2008, from Cameron Smith, the Registrar of the Security Industry Registry ("the SIR"), an administrative body of the NSW Police Force that deals with security licensing of persons within New South Wales. Mr Smith reported that trainers at Roger Training Academy ("Roger"), an RTO, were providing improper assistance to candidates enrolled in security training courses and issuing certificates of competency to these candidates in the absence of a proper assessment of their competency. Concerns were also expressed about the assessment practices at other RTOs delivering security training.

Mr Smith's report to the Commission was based on a number of complaints received by the SIR from former Roger students, intelligence from NSW Police and statements made by former trainers at Roger.

At the request of the Commission, the SIR delayed taking action to revoke Roger's authority to deliver security training to enable the Commission to conduct a comprehensive and effective investigation.

Why the Commission investigated

One of the Commission's principal functions, as specified in section 13(1)(a) of the *Independent Commission Against Corruption Act 1988* (NSW) ("the ICAC Act"), is to investigate any allegation or complaint that, or any circumstances which in the Commission's opinion imply that:

- corrupt conduct, or
- conduct liable to allow, encourage or cause the occurrence of corrupt conduct, or
- conduct connected with corrupt conduct

may have occurred, may be occurring or may be about to occur.

The Commission's role is set out in more detail in Appendix 1. The definition of corrupt conduct under the ICAC Act is stated in Appendix 2.

Licensing of persons to undertake security activities depends upon proof of their satisfactory completion of training. The reduction of the risk to public safety is a key rationale for introducing competency-based training for security officers.

Between 1 September 2007 and 9 March 2009 approved training organisations issued 44,680 training certificates. Of these, around 26% were issued by Roger– one of 28 organisations approved by the SIR to conduct security training and assessment.

In determining to conduct an investigation the Commission took into account the disproportionately large number of training certificates issued by Roger and the importance to public safety of detecting and exposing any corrupt conduct in the delivery of security training. The Commission also had regard to the importance of identifying any inadequacies in systems and processes relating to the oversight of the delivery of security training and any reforms required of those systems and processes.

Conduct of the investigation

The Commission's investigation involved examining documents and information obtained from various sources by issuing notices under sections 21 and 22 of the ICAC Act as well as interviewing and obtaining statements from a large number of witnesses. The Commission also searched the business premises of Roger and the private

residences of various trainers and persons connected with Roger, pursuant to search warrants obtained under the ICAC Act. As a result, a large volume of student files were seized and analysed.

The Commission's initial enquiries suggested that trainers at Roger were providing candidates with the answers to questions contained in a written knowledge test relied upon at Roger to assess a security officer's level of competence. It was also suspected that Mr Merchant, the Operations Manager at Roger, was issuing First Aid certificates to candidates without requiring them to undertake any relevant training.

To identify those at Roger who were engaged in misconduct and to establish the full extent of their involvement, it was necessary to make extensive use of covert physical and electronic surveillance. This included a number of telecommunications interceptions pursuant to warrants under the *Telecommunications (Interception and Access) Act 1979* (Cwlth) and the use of surveillance devices authorised by warrants obtained under the *Surveillance Devices Act 2007* (NSW).

A controlled operation was also authorised under the *Law Enforcement (Controlled Operations) Act 1997* (NSW) ("the Controlled Operations Act"). The Commissioner can authorise a controlled operation for the purpose of obtaining evidence of criminal activity or corrupt conduct. The Controlled Operations Act sets out a scheme for the authorisation, conduct and monitoring of controlled operations. Provided a participant in the controlled operation acts in accordance with the authority, any activity that might otherwise be contrary to law is not unlawful and does not constitute an offence or corrupt conduct. The controlled operation involved a Commission undercover operative approaching a trainer at Roger to obtain a certificate of competency in a security course for the purpose of applying for a security licence.

The Commission also conducted five compulsory examinations of witnesses including Ahmed Moosani, Ali Merchant, Hamdi Alqudsi and Dru Hyland. These four witnesses made admissions about providing improper assistance to candidates enrolled in security training courses at Roger.

The public inquiry

The ICAC Act provides that for the purposes of an investigation the Commission may conduct a public inquiry if it considers it is in the public interest to do so. Section 31(2) of the ICAC Act provides that:

Without limiting the factors that it may take into account in determining whether or not it is in the public interest to conduct a public inquiry, the Commission is to consider the following:

(a) the benefit of exposing to the public, and making it aware, of corrupt conduct,

(b) the seriousness of the allegation or complaint being investigated,

(c) any risk of undue prejudice to a person's reputation (including prejudice that might arise from not holding an inquiry),

(d) whether the public interest in exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned.

While Messrs Moosani, Merchant, Alqudsi and Hyland gave evidence at compulsory examinations, the Commission believed that some of these witnesses had minimised the extent of their misconduct. A public inquiry which allowed for the questioning under compulsion of witnesses provided the Commission with the means to expose the full extent of any corrupt conduct. Furthermore, there appeared to be compelling evidence of serious and systemic misconduct and the significant benefit in exposing this conduct outweighed any prejudice to the reputation of those who were the subject of the investigation. The Commission also wished to examine whether other RTOs were engaged in similar misconduct and whether various providers of security services were knowingly involved with RTOs in the provision of improper assistance to security officers in their employ. Accordingly, the Commission determined it was in the public interest to conduct a public inquiry.

The Hon Jerrold Cripps QC, Commissioner, presided at the inquiry and Carolyn Davenport SC acted as Counsel Assisting the Commission. The public inquiry was conducted over nine days, commencing on 24 August 2009 and continuing until 2 September 2009. Evidence was also heard on 11 September 2009. Twenty-eight witnesses gave evidence.

Following the public inquiry, Counsel Assisting made written submissions regarding possible findings and recommendations. These were provided to the SIR and to all persons potentially the subject of adverse findings and recommendations. Submissions in response were considered in preparing this report.

Investigation outcomes

During the public inquiry Messrs Moosani, Merchant, Alqudsi, Hyland and Camilleri from Roger admitted providing improper assistance to candidates undertaking security training and admitted issuing a large number of false and misleading security qualifications which were relied upon by the SIR to issue security licences.

The misconduct engaged in by Mr Moosani and others at Roger brought a large number of new and existing security officers to Roger, many of whom were attracted by the promise of almost guaranteed certification. As a result, Mr Moosani enjoyed substantial profits. Commission enquiries into Mr Moosani's financial affairs revealed that $1.3 million was deposited into his personal account in 2008 and 2009. Mr Moosani told the Commission that apart from a small income that came from his wife's grocery business the remainder of the $1.3 million came from Roger. The Commission has furnished information to the NSW Crime Commission to enable the Crime Commission to consider taking proceedings under the *Criminal Assets Recovery Act 1990* (NSW).

In Chapter 4 the Commission makes findings that Messrs Moosani, Merchant, Alqudsi, Hyland and Shane Camilleri from Roger, Vivek Raghavan from Security International Services ("SIS"), Craig Wheeler from Security Industry Brokers ("SIB"), Tibi Brandusoiu, Nick Bosynak and José Sanz engaged in corrupt conduct in relation to their involvement in the creation and use of certificates of competency which falsely represented that prescribed competencies relating to security training courses had been demonstrated.

Chapter 4 also contains statements pursuant to section 74A(2) of the ICAC Act that the Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions ("the DPP") with respect to the prosecution of Messrs Moosani, Merchant, Alqudsi, Hyland, Camilleri, Wheeler, Brandusoiu and Raghavan for various criminal offences.

In addition, the Commission recommends that the SIR considers revoking the security licences of Nick Bosynak and José Sanz.

Corruption prevention

Chapter 5 examines how the fragmented and confused state of the current regulatory system contributed to the failure of the licence upgrade process to weed out incompetent and undesirable RTOs and security officers. This chapter also sets out the basis of the Commission's concerns about the legitimacy of all current security licences in NSW and the integrity and competence of all security training providers.

The Commission makes 16 recommendations designed to improve the regulation of the security training industry with a view to mitigating or preventing similar improper conduct in the future. As part of the performance of its statutory functions, the Commission will monitor the implementation of the corruption prevention recommendations made as a result of this investigation.

The recommendations will be communicated to the SIR, VETAB, the NSW Police Force, the Department of Education and Training, the Office of Liquor, Gaming and Racing and WorkCover NSW with a request that an implementation plan for the recommendations be provided to the Commission. The Commission will

also request progress reports and a final report on the implementation of the recommendations.

These reports will be posted on the Commission's website, www.icac.nsw.gov.au, for public viewing.

Recommendation that this report be made public

Pursuant to section 78(2) of the ICAC Act, the Commission recommends that this report be made public forthwith. This recommendation allows either Presiding Officer of the Houses of Parliament to make the report public, whether or not Parliament is in session.

Chapter 2: Background

Regulatory framework

The Security Industry Registry ("the SIR") administers the *Security Industry Act 1997* ("the Security Industry Act") and the Security Industry Regulation 2007 ("the Security Industry Regulation") under delegation from the NSW Commissioner of Police. The core business of the SIR is the issue, refusal, suspension and/or revocation of security licences. The SIR is a public authority for the purposes of the ICAC Act.

Persons wishing to engage in security activities in New South Wales either in the course of conducting a business or in the course of their employment must first possess a security licence issued by the SIR. Security activities include acting as a bodyguard, crowd controller or bouncer, unarmed and armed guard, guard dog handler, loss prevention officer and monitoring security from a control room.

Individuals wishing to apply for a security licence must submit an application to the SIR and supply a number of supporting documents. These documents include a certificate of competency, character references, evidence of Australian citizenship or permanent residency and a current Senior First Aid certificate.

A security licence may be of one of the following classes: a master licence, a Class 1 licence, a Class 2 licence or a provisional licence. These licences are classified into sub-classes authorising engagement in aspects of security activities such as those described above.

Applicants for provisional licences are generally persons who are new to the security industry. These applicants must provide evidence of having completed the Certificate I course or the pre-licensing course in Security Operations. This is a knowledge-based course requiring the delivery of between 60 and 120 hours of classroom teaching. A provisional licensee is required to be supervised in the workplace until he or she has obtained a full qualification as a result of successfully completing a Certificate II or III course.

The Certificate II and III courses in Security Operations are linked to the Class 1 security licence. These courses are knowledge-based and require the provisional licensee to undergo on-the-job assessment by a trainer over a 12-month period and to satisfactorily complete further units of training. Satisfactory completion of these courses entitles a candidate to apply for an unrestricted Class 1 licence.

Certificate I, II and III courses may only be delivered by RTOs which have been granted approval to do so by the SIR and been registered as a training organisation by the New South Wales Vocational Education and Training Accreditation Board ("VETAB"), the organisation responsible for the registration of training organisations and accreditation of vocational courses.

An applicant's probity and competence are the two primary considerations in the assessment of a security licence application by the SIR. In relation to the assessment of the applicant's competence, the SIR is reliant upon the integrity of the training and assessment delivered to the applicant by an approved RTO.

On 1 September 2007 amendments to the Security Industry Act, designed to increase specialisation within the security industry and to upgrade the skills of security officers, increased the number of Class 1 sub-classes from three to seven. As a result, many security officers were no longer authorised by their current licence to perform the same range of security activities. The legislative changes meant that security officers wishing to apply to the SIR to retain their licence sub-class or to take up any of the new Class 1 sub-classes had to first undertake training to meet the new standards set out in the Certificate II and III courses. The SIR set timeframes for the completion of this training. The timeframes were dependent upon the type of licence sub-classes officers sought to retain or take up.

The licence upgrade process meant that RTOs offering security training were in high demand.

In November 2007 the NSW Department of Education and Training published training guidelines and resources for use in relation to the new sub-classes of licences created by the amendments to the Security Industry Act. These resources and guidelines, which were developed by the NSW Government-funded Property and Financial Services Industry Training Advisory Body in consultation with the SIR and the security industry, listed the standards of competency relevant to each licence sub-class and described the manner in which trainers employed by approved RTOs could assess a candidate against those competency standards.

The training guidelines specifically provided that a trainer could use an assessment-only pathway in order to assess a candidate against the standards of competency applicable to a licence sub-class. This is known as skills recognition or recognition of prior learning ("RPL"). This assessment method was considered suitable for candidates who at the time of their assessment were currently employed in the security industry.

From 1 September 2007 until early 2009 existing security officers who were required to upgrade their skills to meet the new licensing requirements, and were able to provide sufficient evidence to demonstrate competency, made applications to Roger and other RTOs to be assessed by way of RPL. The guidelines provided that evidence produced by such an applicant could include, among other things, a written test of underpinning knowledge, testimonials from employers, reports from colleagues or clients, work diaries, evidence of previous security training and observations of the candidate in the workplace by the trainer. The training guidelines provided, however, that it was the responsibility of the trainer employed by the approved RTO to ensure that the evidence produced was authentic, valid, reliable, current and sufficient.

The guidelines also provided that where gaps in an applicant's knowledge were identified by a trainer, further classroom training should be provided.

The SIR anticipated that existing security officers wishing to retain their licence sub-class would do so by way of a combination of the RPL process and classroom training for standards of competency for which the student could not demonstrate or provide evidence of prior learning.

Roger Training Academy

Mr Moosani is the owner and principal of Roger. He commenced working in the security industry as a security officer and obtained his training qualifications in 2004. In 2005 he formed Roger for the purpose of delivering security training. VETAB registered Roger as a training organisation in June 2005. In February 2006, the SIR conditionally approved Roger to conduct training and assessment in relation to security training courses. On 9 March 2009 the SIR revoked Mr Moosani's master licence as a result of the Commission's investigation.

Mr Moosani did not involve himself in the delivery of training at Roger. He employed a number of trainers including Messrs Alqudsi, Hyland and Camilleri, who formerly worked as security officers, to deliver training to and conduct assessments of candidates enrolled in security courses at Roger. Mr Moosani also employed Mr Merchant, his brother-in-law, as Operations Manager of Roger. Mr Merchant was responsible for the day-to-day running of the business.

Other RTOs

The Commission examined the delivery of security training and the conduct of assessments at Nationwide Security Training Academy ("Nationwide"), an RTO operating from Boambee, south of Coffs Harbour and Security Training and Tactics Pty Limited ("STAT"), an RTO operated by Craig Murray. John Shipway, the principal of Nationwide, relied upon an RPL candidate's performance in a written test as an aid in assessing competency. STAT relied upon documentary evidence produced by an RPL candidate and did not rely on a comprehensive knowledge test as an assessment tool.

The Commission also examined the means by which a number of trainers employed at Roger obtained their security qualifications from John Murray, the master licence holder of Portfolio Training Academy ("Portfolio"), an RTO.

Chapter 3: Security training and assessment

This chapter principally examines the conduct engaged in by persons working at or connected with Roger in relation to the delivery of security training and assessment. Messrs Moosani, Merchant, Alqudsi, Hyland and Camilleri admitted improperly providing the answers to the written knowledge test contained in the RPL workbooks. This resulted in the improper issue of a large number of security qualifications to candidates enrolled at Roger. These certificates were then used by persons in the course of applying for a security licence at the SIR.

This chapter also examines training and assessment practices engaged in by Nationwide, STAT and Portfolio.

Ahmed Moosani

The Commission's investigation of Mr Moosani's activities was concerned with two broad categories of conduct. First, certifying competency in relation to the pre-licensing course in circumstances where candidates, most of whom were new to the security industry, had not undertaken any training. Secondly, his role as the principal of Roger in encouraging or permitting trainers employed at Roger to certify RPL candidates as competent in the absence of a proper assessment of the extent of their competency. Most of these candidates were existing security officers wishing to retain their licence sub-class or take up any of the new Class 1 sub-classes.

In both cases the conduct engaged in by Mr Moosani and some of his trainers brought a large number of new and existing security officers to Roger, many of whom were attracted by the promise of almost guaranteed certification.

The Commission is satisfied that Mr Moosani was motivated by greed and that he profited handsomely from his improper conduct.

Mr Moosani's conduct in relation to the pre-licensing course

Roger conducted the pre-licensing course over a two-week period and required candidates to undertake a written knowledge test at the end of that period as the primary means of assessment. Roger conducted the test as an open-book examination and encouraged candidates to consult the course manual during the test. However, Margaret Willis, the Director of VETAB, told the Commission that written examinations conducted by an open-book process alone were not considered by VETAB to be a sufficient means of assessing competency in respect of this qualification.

Mr Moosani told the Commission that in 2006 and 2007 he issued candidates enrolled at Roger with certificates of competency in relation to the pre-licensing course without requiring them to attend any classes or undertake the relevant coursework. He could not satisfactorily explain why he did so. Mr Moosani said he did not obtain additional payments from candidates who were unfairly favoured in this manner. Most of these persons had no knowledge or experience of security activities. Mr Moosani said he knew this was dishonest and provided the recipients of the certificates with the means to improperly obtain a provisional licence from the SIR. He said he created false documents to disguise the fact that students had not attended classroom lectures.

The Commission also identified occasions in 2009 when Mr Moosani engaged in improper conduct in relation to the pre-licensing course.

In January and February 2009, the Commission lawfully intercepted telephone calls between Nick Bosynak, Mr Moosani and Tibi Brandusoiu. On the basis of these calls the Commission suspected that Mr Brandusoiu, a person involved in the security industry, had introduced Mr Bosynak, who had no previous experience in the security industry, to Mr Moosani for the purpose of obtaining a certificate without undertaking any training or assessment.

Mr Moosani said he certified Mr Bosynak as competent in respect of the pre-licensing course having earlier provided him with the answers to the questions contained in the course workbook. He said he also issued a First Aid certificate to Mr Bosynak without requiring him to undertake any relevant training.

Mr Bosynak said he was introduced to Mr Moosani by Mr Brandusoiu. He said he gave Mr Moosani an opal worth $4,000 in return for the answers to the questions in the workbook. He said these answers were copied into his workbook.

Mr Moosani admitted receiving the opal from Mr Bosynak as a reward for falsely certifying him as competent in respect of the pre-licensing course.

Mr Bosynak said he knew the certificates were false and that in the course of applying for a provisional licence officers at the SIR had been deceived into believing he had demonstrated competency in respect of the security training course and the delivery of first aid.

Mr Brandusoiu denied he introduced Mr Bosynak to Mr Moosani for any improper purpose. However, the Commission is satisfied that Mr Brandusoiu did intend to facilitate the obtaining of a security licence by Mr Bosynak by improper means.

On 27 January 2009, Mr Brandusoiu telephoned Mr Moosani and told him he had a friend (Mr Bosynak) who wanted to do a course but whose English was not very good. Mr Brandusoiu admitted making the telephone call to Mr Moosani but said he had done so after Mr Bosynak had already contacted Mr Moosani.

During a telephone call on 9 February 2009, Mr Moosani complained to Mr Brandusoiu that Mr Bosynak did not want to answer the questions in his own handwriting. Mr Moosani explained to Mr Brandusoiu that he was concerned that if Mr Bosynak did not complete the workbook it may increase the risk of detection:

Moosani: *Ah I told him to, I told him to, I tell him, I told him to um write down the answer like the only I sent copy to him. And he doesn't want to write the answer with his own handwriting. What to do now?*

Brandusoiu: *Huh? But he has to do a lot of work, mate, you know?*

Moosani: *Yes but he has to write the answer. If something happens, if we get audited. But like his handwriting is still there you know like he was in the classroom and he was having the answers.*

Brandusoiu: *Oh mate, but you give him a little homework, mate, you know?*

Moosani: *Yeah I know, I already told him I give him the answers, you know, like to go home and write down the answers.*

In a telephone conversation later that day between Mr Moosani, Mr Brandusoiu and Mr Bosynak, Mr Brandusoiu explained to Mr Bosynak that he was required to complete the book:

Brandusoiu: *Hey I spoke with him. Everything is fixed. Just those ah, papers what we'll give you is with the answers everything. You just have to write down with your handwriting, you know.*

Bosynak: *Handwriting?*

Brandusoiu: *Something to, to be your handwriting there, you know.*

Bosynak: *Handwriting what? I, I don't know what handwriting?*

Brandusoiu: *Whatever he's giving you now –*

Bosynak: *Yeah.*

Brandusoiu: *– he will give you the answers too so you have just to copy the answers. Alright for those books, that's it. After all that has been fixed other things. Alright?*

Bosynak: *Alright, alright but –*

Brandusoiu: *But whatever he gives you I told him he, he give you the answers too. You just copy the answers. Alright?*

Bosynak: *Okay, the answers.*

Brandusoiu: *Yeah, you have to copy the answers yeah, alright?*

Bosynak: *I, I been talk with a few, few of my friends which want security. It's, they tell me it's very complicated papers.*

Brandusoiu: *Yeah, I, I told but he gave you the answers so you just copy the answers.*

Bosynak: *Copy the answers.*

Brandusoiu: *Yeah.*

In the same conversation Mr Brandusoiu then directed Mr Moosani, who was with Mr Bosynak at the time, to provide Mr Bosynak with the answers to the questions, a

First Aid certificate and a Responsible Service of Alcohol (RSA) certificate. The latter certificate is required for security officers intending to work on licensed premises. However, this type of certificate is not required in order to apply for a security licence.

In his evidence to the Commission Mr Brandusoiu denied he knew that Mr Bosynak had not undertaken any coursework prior to obtaining his certificate in respect of the pre-licensing course because he said he did not see Mr Bosnyak after the conversation on 9 February 2009. However, when asked why he told Mr Bosynak in the telephone conversation to copy the answers into the workbook he could offer no sensible explanation other than to say it was because Mr Moosani told him he would provide Mr Bosynak with "all the paperwork".

The Commission is satisfied that Mr Brandusoiu knew that the provision of the answers to Mr Bosynak was the type of conduct that needed to be concealed. During their first telephone conversation on 9 February 2009 Mr Moosani told Mr Brandusoiu he was concerned that Mr Bosynak's initial refusal to complete the workbook created a risk that any subsequent audit could lead to detection. During the later telephone conversation on that day Mr Brandusoiu responded to Mr Moosani's concerns by urging Mr Bosynak to complete the workbook in his own handwriting.

Based on the intercepted telephone calls, the Commission is satisfied that Mr Brandusoiu arranged for Mr Bosynak to obtain a certificate from Mr Moosani in respect of the pre-licensing course on the basis that he would not be required to undertake any training or assessment. The Commission is also satisfied that Mr Brandusoiu's denial that he knew Mr Bosynak had not undertaken any coursework was deliberately false.

Mr Moosani said that on another occasion in January 2009 he arranged with Mr Merchant to provide the answers to the questions contained in the Certificate I workbook to another candidate. Mr Merchant said in furtherance of this arrangement he provided a compact disc containing the answers to the candidate.

Inadequate English language skills

In the telephone conversation between Mr Brandusoiu and Mr Moosani on 27 January 2009, Mr Brandusoiu explained to Mr Moosani that Mr Bosynak's English skills were not very good. Mr Bosynak gave evidence before the Commission with the assistance of an interpreter. This highlighted that English language difficulties were no bar to obtaining a certificate of competency from Roger notwithstanding the requirement imposed by the SIR that candidates undertaking approved security training courses were required to demonstrate English language competency.

Paul Lewis, a trainer at Roger in 2006, said he complained to Mr Moosani that students he taught in the pre-licensing courses had insufficient English skills to pass the literacy test. Mr Lewis said Mr Moosani directed him to continue teaching those students regardless of their lack of English skills. Mr Moosani admitted he gave Mr Lewis that direction and said he required students with poor English skills to pay him extra money if they wished to gain certification.

Mr Moosani's conduct in relation to the Certificate II and III courses

When the changes to the Security Industry Act came into effect on 1 September 2007, Mr Moosani had already established a practice at Roger of certifying persons as competent in respect of the pre-licensing course without requiring them to undertake any relevant training.

After 1 September 2007 a large number of existing security officers applied for RPL at Roger in respect of the Certificate II and III courses with a view to applying to the SIR for a licence under the amended Security Industry Act.

Most of the RPL applications assessed at Roger were made by security officers wishing to obtain a certificate of competency in respect of unarmed guarding and crowd control. These officers originally had until 1 November 2008 to upgrade their training and apply for a new licence. This was later extended by the SIR to 7 January 2009.

During the course of its investigation the Commission identified three versions of workbook answers which it suspected had been distributed to RPL candidates by trainers at Roger. The Commission lawfully seized a large number of student files and workbooks from Roger and examined 1,200 of the workbooks for indications that security guards had used these sets of answers to complete the various workbooks. 970 (80%) of the workbooks which were examined contained indications that a version of the answers identified by the Commission had been used to complete the workbooks in varying degrees.

Mr Moosani said he noticed identical answers appearing in different workbooks after the legislative changes were introduced and realised some of his trainers were providing security officers with the answers to the workbook test. A summary of the evidence relating to the conduct of these trainers is set out later in this chapter.

Mr Moosani said he told the trainers he suspected of distributing the answers to stop the practice. However, he told the Commission he failed to check whether they had followed his direction because he was reaping substantial profits from the business. Commission enquiries into Mr Moosani's financial affairs revealed that $1.3 million was deposited into Mr Moosani's personal

account in 2008 and 2009. Mr Moosani said apart from a small income that came from his wife's grocery business the remainder of the $1.3 million came from Roger. The Commission has furnished information to the NSW Crime Commission to enable the Crime Commission to consider taking proceedings under the *Criminal Assets Recovery Act 1990* (NSW).

Mr Moosani said he knew his trainers were acting dishonestly by providing the answers to security officers and by the end of 2008 the practice was commonplace within Roger.

The Commission is satisfied that Roger's enrolments significantly increased in 2008 due to word spreading in the industry that Roger trainers distributed the answers to the written test. Mr Moosani deliberately failed to take any steps to prevent this from continuing because of the significant financial gains he enjoyed as a result of this practice.

VETAB conducted a number of audits of Roger. In a measure designed to minimise the risk that a VETAB audit would uncover evidence of improper practices, Mr Moosani employed a compliance manager at Roger. He told the Commission he hoped such a person would give an outward appearance that he and others at Roger were concerned about compliance with industry standards.

Ali Merchant

Mr Merchant began working at Roger in 2007 as the Operations Manager. Mr Merchant had no previous experience in the security industry.

Applicants applying to the SIR for a full licence or provisional licence must provide a current First Aid certificate. Successful completion of a course in first aid requires a candidate to attend six hours of classroom teaching and to complete tasks and answer questions contained in a course workbook.

Roger was not authorised to issue First Aid, RSA or Responsible Conduct of Gambling ("RCG") certificates. RCG certificates are required by security officers working at licensed gaming venues such as registered clubs and hotels. Such certificates are not required in order to apply for a security licence.

In 2007 Hicham Razak, the principal of Unique College of Technology, a training organisation accredited by WorkCover to provide first aid training, entered into a partnership agreement with Mr Moosani which allowed Roger to use a qualified trainer to deliver first aid training at its own expense and issue First Aid certificates in the name of Unique College of Technology. Mr Razak provided Roger with numbered certificates for this purpose.

Mr Moosani entered into a similar arrangement in respect of RSA and RCG certificates with Narendra Jain, the principal of Amstar Learning Pty Limited, another training organisation.

Mr Merchant said in return for a payment of $100 or $150 he provided First Aid, RSA and RCG certificates to security officers and others without providing any training. He said he knew the First Aid certificates he falsely issued were relied upon by security officers in the course of applying for a security licence and that officials at the SIR would be deceived into believing that the applicant had successfully completed a first aid course.

Mr Merchant said Mr Moosani directed him to issue the First Aid certificates in circumstances where no training had been undertaken and Mr Moosani knew he was issuing the RSA and RCG certificates without delivering any relevant training. He said he accounted to Mr Moosani for the money he made on the sale of these certificates.

Mr Moosani told the Commission that before Mr Merchant commenced working at Roger, First Aid certificates were issued in the absence of training. He said Mr Merchant simply continued a practice that was already established. He said no training courses were delivered at Roger in respect of the responsible service of alcohol or the responsible conduct of gambling.

Both Mr Razak and Mr Jain received a payment of between $20 and $40 from Roger for each certificate issued by Mr Merchant in the name of their training organisation. Both persons denied knowing that certificates were issued without the requisite training having been delivered.

Mr Merchant said Mr Razak and Mr Jain did not attend Roger to check whether training had been delivered and as far as he knew they were unaware he was issuing certificates without the requisite training having been delivered. Mr Razak said he did take steps to confirm the training was appropriately conducted at Roger after he had received complaints that training was not delivered. He said he raised these concerns with Mr Moosani, who assured him they were unfounded. There is insufficient evidence available to the Commission to find that Mr Razak and Mr Jain were knowingly involved in the issuing of false certificates.

Maria Mallari, an administration officer at Roger who worked on the front desk, said she referred people inquiring about RSA, RCG and First Aid certificates to Mr Merchant and observed him issue certificates to them almost immediately. The apparent ease by which Mr Merchant issued these certificates was in part aided by the fact that Mr Razak and Mr Jain had provided him with access to an electronic template of the certificates

which enabled him to print them at will. By early 2009 Mr Merchant was issuing false First Aid certificates in a random fashion without regard to the numbering system implemented by Mr Razak. This became clear during the course of the controlled operation conducted by the Commission in order to investigate the misconduct engaged in by persons at Roger.

The Commission employed an undercover operative in December 2008 to approach Roger using an assumed identity. He represented to Dru Hyland, a trainer at Roger, that he was a former security officer whose licence had expired. Mr Hyland provided the undercover operative with the answers to the workbook questions and referred him to Mr Merchant for the purpose of obtaining a First Aid certificate without undergoing any relevant training.

Mr Merchant admitted that on 12 January 2009, after receiving a payment of $100 from the undercover operative, he issued him with a First Aid certificate knowing he had not undertaken any First Aid training. Mr Merchant said he then agreed to provide the undercover operative with false certificates in the names of other persons.

On 22 January 2009 Mr Merchant, upon receipt of $800, gave the undercover operative two false First Aid, three false RSA and three false RCG certificates in the names of other persons. In his evidence to the Commission Mr Merchant denied he randomly allocated numbers to First Aid certificates which he then printed and distributed to buyers. However, the numbering sequence on the First Aid certificates issued by Mr Merchant on 22 January 2009 did not bear any resemblance to the numbers provided to Roger by Mr Razak. Mr Moosani said Mr Merchant manufactured these numbers to avoid having to pay a fee to Mr Razak for the issue of each certificate.

Mr Merchant also said he distributed the answers to the workbooks to persons applying for RPL at Roger. In September 2008 he received an email attaching a version of the RPL answers which he suspected had been distributed by Mr Alqudsi. Mr Merchant said he forwarded the email together with the answers to RPL applicants enrolled at Roger and did so on two or three occasions. The Commission is satisfied that Mr Merchant did so with the intention of improperly assisting those RPL applicants to obtain a certificate from Roger and thereafter a security licence from the SIR.

Mr Merchant was aware that the practice of distributing the answers at Roger was widespread. Ms Mallari said that in late 2008, as the SIR deadline approached, she began distributing the answers to the workbooks, which she obtained from Mr Merchant, to RPL applicants who enrolled at Roger. She said she did so because it was an established practice at Roger to provide the answers to applicants.

Ms Mallari said the workbooks and answer books, which were provided to her by Mr Merchant, were known among administrative staff at Roger as "service packs".

Mr Merchant said he was aware that Ms Mallari was distributing copies of the answers. He said there was little point in preventing her from doing so as other trainers were also distributing the answers.

Attempt by Messrs Moosani and Merchant to deflect the Commission investigation

On 9 March 2009 the Commission lawfully searched Roger's business premises. Mr Moosani and Mr Merchant were present during the search.

On 10 March 2009 the Commission lawfully intercepted a telephone call between Mr Merchant and a male who was involved with a business providing security services. Mr Merchant told the male to remove material from his office and warned him it was possible that the Commission might conduct a search of his premises in the near future. The male told Mr Merchant he had already removed the material from his office. A few minutes later the Commission lawfully intercepted a telephone call between Mr Merchant and Mr Moosani. Mr Merchant told Mr Moosani he had received confirmation from the male that the material had been removed from his office and computer.

Mr Merchant said the purpose of his phone call to the male on 10 March 2009 was to ensure the removal of material which might implicate him or persons connected with Roger in corrupt conduct. He said he made the telephone call at the direction of Mr Moosani.

Mr Moosani agreed that he directed Mr Merchant to make the telephone call and did so for the purpose of ensuring the removal of copies of false documents that had been provided to Roger in support of RPL applications. He said he knew at the time he directed Mr Moosani to make the call that he and others at Roger were under investigation by the Commission.

Security International Services – Vivek Raghavan

Candidates applying for RPL for a new unrestricted licence must provide the RTO with evidence of being employed in the job role of the licence category for a period of time sufficient to demonstrate development of competencies in the workplace. A reference from a past or present employer setting out the security officer's work history and level of competency in the workplace is considered an acceptable form of proof of security industry employment.

During the search at Roger's premises the Commission seized various computers found on the premises and used in the course of business. Examination of these computers uncovered emails sent from Mr Merchant to Vivek Raghavan, the National Administration Manager of Security Internal Services ("SIS"), a business providing security services. In two emails, dated 27 and 30 May 2008, Mr Merchant asked Mr Raghavan to arrange "evidence" for two security officers in return for the payment of money.

Mr Merchant said on around 20 occasions he arranged for Mr Raghavan to create references which falsely represented that RPL applicants at Roger were engaged in employment within the security industry and the emails dated 27 and 30 May 2008 related to two such occasions. He said he charged RPL applicants $300 for these false references and provided half of that amount to Mr Raghavan. Mr Merchant said he knew these false references would be relied upon by RPL applicants in the course of applying to the SIR for a licence. Mr Moosani also admitted making payments to Mr Raghavan in return for the provision of false employment references.

Mr Raghavan was shown two references signed by him under the letterhead of Protec Security Pty Limited, a subcontractor to SIS. He said that he had no authority to sign such letters, that he created them knowing they falsely represented that persons referred to in the letters worked for Protec Security and that he did so at the request of Mr Merchant in return for a payment of $100 for each reference. He estimated that he created false documents in similar circumstances on eight to ten occasions and the emails he received from Mr Merchant on 27 and 30 May 2008 represented two such occasions. He said that in each case he supplied Mr Merchant with false work references in respect of persons he had never met. He said he also created and supplied incident and accident reports which falsely attributed authorship to the security officers who were the subject of the work references. These reports falsely supported the case that the officers were actively and effectively engaged in security activities. Mr Raghavan said he knew that security officers were required to supply a work reference in support of an RPL application.

Mr Raghavan had responsibility as a manager at SIS to ensure that around 70 or 80 security officers employed at SIS undertook the necessary training in order to apply for and obtain a security licence following amendments to the Security Industry Act.

He said a large number of the officers at SIS applied to Roger for certificates of competency by way of RPL. Mr Raghavan said in June 2008 he became aware that some security officers from SIS attending Roger were provided with the answers to the workbook questions. He knew the workbook contained a written test which was used as an assessment tool at Roger. Mr Raghavan said he was not involved in arrangements that led to SIS staff being provided with the answers to the workbook questions. There is insufficient evidence to establish that he was involved in these arrangements. The Commission is satisfied, however, that he took no steps to prevent or discourage this from occurring.

A number of the security officers employed at SIS gave evidence before the Commission about the means they adopted to obtain their certificates of competency from Roger.

Waleed Hamady, who gave evidence at the Commission with the assistance of an interpreter, first gained his security licence in 2003 and commenced working as a static guard with SIS in 2007 at various places including the Defence National Storage and Distribution Centre at Holsworthy. He said in July 2008 he contacted Mr Merchant for the purpose of making an RPL application, having been referred to Roger by a person within SIS. Mr Hamady said he attended Roger and was instructed by a trainer to complete a workbook and return it as part of his RPL application. He said he had difficulty understanding the questions in the workbook and sought assistance from the person within SIS who had referred him to Roger. Mr Hamady said this person provided him with a booklet containing the answers to the workbook. He said he completed the workbook using the answers.

Balu Pawar first gained his security licence in 2007 and worked for SIS as a static and mobile guard at the Defence National Storage and Distribution Centre at Holsworthy. In May 2008 he made an RPL application at Roger. Mr Pawar said he attended Roger and was provided with a workbook together with the answers to the questions contained therein. He said he used the answers to complete the workbook.

Liaquat Ali Khan worked for SIS as a static guard at the Glenbrook RAAF base. In June 2008 he attended Roger. He said spoke to Mr Moosani who provided him with the workbook and a document containing the answers to the questions in the book. Mr Khan was not required to undertake a literacy test. He said because his English writing skills were poor he arranged for his daughter to complete the workbook which she did using the answers provided by Mr Moosani and the results of research she conducted on the internet. Mr Khan said his daughter also created some accident and incident report forms based on fictitious events which he also submitted to Roger as evidence in support of his RPL application.

Yusuf Syed worked for SIS in 2008 as a static and mobile guard at the Defence National Storage and Distribution Centre at Holsworthy. He said he attended Roger in July 2008 and was provided with a workbook together with a

"Learners Guide" which contained a set of answers to the questions contained in the book. He said he was told this would assist him to answer the questions. Mr Syed said he used the answers to complete the workbook and when he returned the workbook to Roger he was given a current First Aid certificate after confirming with a trainer at Roger that he had undertaken a First Aid course on a previous occasion.

There is no evidence before the Commission indicating that Messrs Hamady, Pawar, Khan and Syed understood how a proper RPL assessment should be conducted and in the absence of such evidence the Commission is not satisfied that they knew or believed they were acting dishonestly by using the answers to complete the workbooks.

Hamdi Alqudsi

Mr Alqudsi began working at Roger as a trainer in early 2008 in a part-time capacity. At the same time he was also employed as a security trainer by Intercept Group, an RTO. On 6 June 2008 his employment at Intercept Group was terminated when it was discovered he was also working for Roger. Mr Alqudsi then commenced full-time employment at Roger.

Mr Alqudsi said from the time he began working at Roger in a part-time capacity, he provided the answers to the RPL workbook to security officers he introduced to Roger. He said when he learnt that Roger assessed a candidate's competency based on the workbook test he created a compact disc containing the answers to the test and then distributed copies of it to individual security officers and groups of security officers employed by companies providing security services. He said he also provided officers with a copy of the answers to the literacy and numeracy test. Mr Alqudsi said he provided 98% of the security officers he introduced to Roger with the compact disc containing the answers to the RPL workbook questions and by July or August 2008 processed between 40 and 50 RPL applications each week through Roger.

The certificates of competency issued by Roger contained the electronic signature of Mr Moosani and the trainer who purported to have conducted the assessment of the candidate. However, it became apparent during the course of the Commission's investigation that certificates were often issued at Roger containing the electronic signature of a trainer who had no involvement in assessing the candidate's RPL application. In these circumstances the certificates do not provide a reliable means of identifying the quantity of RPL applications processed by trainers who were the subject of the Commission's investigation. In the absence of any other evidence the Commission is unable to determine the number of RPL applications improperly processed by Mr Alqudsi or any other trainer at Roger engaging in similar conduct.

Mr Alqudsi said security officers initially paid him $400 to process their RPL applications. However, he said the payment was later reduced to between $250 and $300 as the deadline set by the SIR for licence renewal approached. He said he gave Mr Moosani half of these amounts.

Mr Alqudsi said he knew security officers to whom he had provided the answers to the workbook questions were not properly assessed by Roger and that certificates of competency issued in these circumstances deceived the SIR into believing that a proper assessment had been conducted.

Mr Alqudsi said Mr Moosani was initially unaware he was distributing the answers to the workbooks. However, the Commission is satisfied that Mr Moosani became aware of Mr Alqudsi's conduct by August 2008 when Mr Merchant brought to his attention an email, which had been forwarded to Roger from a business providing security services, attaching a copy of the answers distributed by Mr Alqudsi. Mr Merchant said that in response to the email he approached Mr Alqudsi and told him to stop handing out the answers. However, Mr Alqudsi said he ignored the direction and no checks were undertaken by Mr Merchant or Mr Moosani to determine whether he had complied with the direction.

Mr Moosani terminated Mr Alqudsi's employment with Roger in November 2008. Mr Moosani said he did so not because he was concerned about Mr Alqudsi's dishonest conduct but because it became apparent that Mr Alqudsi was working for another training organisation.

Mr Alqudsi said after the termination of his employment at Roger, and in furtherance of an arrangement he had with Mr Moosani and Mr Merchant, he continued to provide Roger with RPL workbooks completed by officers to whom he had provided the answers. Mr Moosani and Mr Merchant agreed they had entered into such an arrangement with Mr Alqudsi.

Mr Alqudsi said he engaged in this conduct because he was determined to assist persons within the security industry whom he thought were at risk of losing their employment as a result of the new licensing arrangements. Whether or not this was so, the Commission is satisfied he was motivated by greed and saw opportunities to manipulate a system that he said was ripe for exploitation.

Dru Hyland

Mr Hyland started working as a trainer at Roger in late 2007. He said he introduced between 250 and 500 RPL candidates to Roger in 2008 and charged them between $300 and $350 for an RPL application. However, the evidence establishes that Mr Hyland, on at least one occasion, charged $500. He said he paid $150 to Mr

Moosani from these amounts for the issue of a certificate of competency.

Mr Hyland said he was given a copy of the RPL sample answers by other Roger trainers shortly after the legislative changes came into effect. He said he began distributing the answers to individual officers and groups of officers employed by security companies all of whom were undertaking the RPL process through Roger. Mr Hyland said he provided the answers to ensure that officers could complete the workbook and in doing so failed to undertake a genuine assessment of an officer's competency. He said he knew officers at the SIR would rely on the certificates, which falsely represented that an officer had been properly assessed, in the course of considering an application for a security licence.

The proper role of a trainer in Mr Hyland's position was to ensure that candidates applying for RPL provided reliable and authentic evidence which established they possessed competencies relevant to and experience in the job role of the licence category sought. In the two examples referred to below, Mr Hyland, by providing the answers to the RPL workbook, failed to assess the level of the candidate's competency. In these circumstances it is not surprising that he also failed to check the authenticity of their work experience claims or disregarded their lack of recent experience. This highlights how the conduct engaged in by trainers at Roger, including Mr Hyland, created the risk that security officers, improperly certified as competent, could enter new sectors of the security industry in which they had no or little experience, knowledge or training.

Gavin Rich enrolled at Roger in January 2009 to obtain a certificate of competency in bodyguarding. Mr Hyland said he forwarded the answers to the relevant workbook to Mr Rich by email and instructed Mr Rich, who told him he was unable to obtain an employment reference because his previous employer was no longer operating, to complete a statutory declaration setting out the nature of his security industry experience. Mr Rich did so and listed bodyguarding as a relevant area of experience. Mr Rich later told the Commission he had no training and very limited experience as a bodyguard, having performed the role on only one previous occasion.

He also said he used the information provided to him by Mr Hyland to complete the workbook. However, there is no evidence before the Commission indicating that Mr Rich understood how a proper RPL assessment should been conducted and in the absence of such evidence the Commission is not satisfied that Mr Rich knew or believed he was acting dishonestly by using the answers provided by Mr Hyland.

On 17 December 2008 the Commission undercover operative approached Mr Hyland at Roger during the course of the controlled operation. He represented to him that he obtained his security licence in 2003 and had worked in the security industry for a period of only 12 months after obtaining his licence. He told Mr Hyland he was unable to provide any work references. The absence of current or recent work experience would ordinarily have required a candidate to undertake additional classroom training and assessment to establish to the satisfaction of the trainer that the candidate possessed the relevant competencies. However, Mr Hyland agreed he sent the undercover operative an email attaching the answers to the RPL workbook; provided him with the completed workbook of another student for the purpose of copying the answers from that workbook into his own; encouraged him to submit a résumé in support of his application by emphasising his security industry experience without making reference to the dates he gained that experience; and referred him to Mr Merchant to obtain a First Aid certificate knowing he would not be required to undertake any training. Mr Hyland then issued him a certificate of competency. He admitted his conduct in relation to the undercover operative was dishonest. He said he charged him $500 and gave $150 from that amount to Roger.

Mr Hyland said he was aware that Mr Merchant was issuing false First Aid certificates in return for the payment of $150 and he was referring security officers to Mr Merchant for this purpose. He said he knew that First Aid certificates were required by security officers to obtain a security licence and that officers at the SIR relied upon the certificates as proof that persons had received training in first aid.

During a lawfully intercepted telephone conversation Mr Hyland told another person he had earned $150,000 from Roger in the five months leading up to December 2008. Mr Hyland said this was boasting on his part and he had earned approximately $90,000 in that period. There is insufficient evidence available to the Commission to determine whether Mr Hyland's claim that he was only boasting is true.

Security Industry Brokers – Craig Wheeler

Mr Hyland also supplied the answers to the RPL workbooks to groups of security officers associated with companies providing security services. Mr Hyland entered into such an arrangement with Mr Wheeler, the principal of Security Industry Brokers ("SIB") which provides a brokerage service within the security industry. Mr Wheeler is also a member of the Institute of Security Executives, a peak body in the industry and has an interest in companies providing security services. Mr Wheeler organised around 40 security officers to obtain their certificates of competency by way of RPL through Mr Hyland and Roger.

Mr Hyland said he travelled to Coffs Harbour and Port Macquarie in 2008, at Mr Wheeler's request, to meet with security officers associated with SIB applying for RPL. Mr Hyland said he gave the officers in attendance either a hard copy of the workbook answers or later forwarded the answers to them by email. He said persons working in the office at SIB collected the workbooks after the workshops, gathered together employment references and other supporting documents and forwarded all the paperwork to him at Roger. He said SIB took a percentage of the payments received from the security officers. He then issued these officers with certificates of competency.

Ms Radwanowski commenced working for SIB in September 2008 as the Office Manager. She said Sharmani Gomez, a junior assistant, began working at SIB four or five weeks later and Mr Wheeler made up the third person in the office.

Ms Radwanowski said her employment with SIB was the first occasion she worked in the security industry. She said she had no knowledge of licensing within the industry and relied upon Mr Wheeler to instruct her about organising RPL applications on behalf of security officers. This included providing security officers with a quote for the cost of undertaking an RPL application, collecting RPL workbooks, employment references and supporting documents and delivering them to Mr Hyland in a timely manner. She said she was also required to ensure that Mr Hyland provided SIB with certificates of competency in time for her to send them to the SIR in support of licence applications she made on behalf of various security officers. Ms Radwanowski said that money collected from security officers applying for RPL at Roger was kept in a safe at SIB and paid to Mr Hyland by Mr Wheeler.

Ms Radwanowski said in October 2008 she was told by a security officer that he was having difficulty completing an RPL workbook. She said she spoke to Mr Wheeler and told him the officer was struggling to complete the workbook. Ms Radwanowski said that Mr Wheeler then directed her to provide the officer with a set of sample answers which was electronically stored at SIB. She said that Mr Wheeler forwarded a copy of the answers to her by email when she was unable to find the electronic copy.

Ms Radwanowski provided a copy of the email and attached answers to the Commission. The answers had been emailed to Ms Radwanowski on 29 October 2008 by Mr Wheeler who had received them from Mr Hyland by email on the previous day. These answers, which had the word "sample" printed on them, related to the static or mobile guard and crowd controller licence sub-classes, the most popular of the security licence sub-classes. Mr Hyland agreed that he had provided these answers to Mr Hyland by email.

Ms Radwanowski said in December 2008 she noticed that a number of security officers who had submitted RPL workbooks to SIB had failed to answer all the questions set out in the workbook. Ms Radwanowski said that she brought this to the attention of Mr Wheeler and Mr Hyland and they both directed her and others to complete these workbooks themselves using the answers provided by Mr Hyland to Mr Wheeler. She said staff at SIB followed this direction, however on occasions Mr Hyland, upon receipt of the workbooks completed by SIB staff, complained that the workbooks displayed different handwriting. She said he then directed her to rewrite the whole book by hand so that different handwriting did not appear in the workbook.

Ms Radwanowski said that by December 2008 the practice of SIB employees completing RPL workbooks on behalf of security officers quickly escalated to the point where whole RPL workbooks were completed in this fashion. She said this was done by SIB employees at the direction of Mr Wheeler. Ms Radwanowski said around 15 workbooks were completed in accordance with Mr Wheeler's direction by her sister, who was hired by Mr Wheeler to perform this task, and Ms Gomez. She said Mr Hyland insisted that the RPL workbooks relating to the static and mobile guard and crowd controller licence sub-class should be completed by hand. Ms Radwanowski said her sister and Ms Gomez used the answers provided by Mr Hyland to complete the workbooks in this manner.

Ms Radwanowski said sets of typewritten answers relating to the bodyguarding and dog handling licence sub-classes had either been emailed to her by Mr Hyland or located by her in electronic form on the SIB server. She said that in accordance with the direction of Mr Wheeler, copies of these answers were attached to the RPL workbooks of candidates applying for a certificate of competency in respect of bodyguarding or dog handling. Ms Radwanowski said that Mr Hyland did not require SIB staff to write these answers out by hand but told her to ensure that the typewritten answers were reformatted before a copy was printed and attached to a candidate's RPL workbook for the purpose of masking the fact that the answers came from one source.

The Commission found sets of RPL answers on Mr Hyland's home computer during the course of a lawful search, including answers relevant to the bodyguarding licence sub-class. Mr Hyland told the Commission that he believed he provided these answers to Mr Wheeler. Ms Radwanowski identified a set of typewritten answers relevant to the bodyguarding RPL workbook that had been attached by an SIB employee to the RPL application of Adam O'Brien, a security officer associated with SIB. Mr O'Brien told the Commission he had no knowledge of this occurring. Ms Radwanowski said this was done in accordance with the general direction given by Mr

Wheeler. These answers were identical to those found on Mr Hyland's home computer and identified by him as the answers he believed he provided to Mr Wheeler.

Ms Radwanowski recalled that whole workbooks were completed in accordance with Mr Wheeler's direction for two security officers employed by a company which subcontracted to SIB. She said the cost of completing the books was deducted from money owed by SIB to this company. Ms Radwanowski provided the Commission with a copy of an email dated 29 December 2008 which she sent to the company. The email contained an offer by her to complete a number of workbooks on behalf of particular security officers at a cost of $200 each. She said Mr Wheeler told her to charge this amount.

Sharmani Gomez said she was employed by Mr Wheeler as a junior assistant for a period of two months and left SIB at the end of November 2008. She said she was asked by Mr Wheeler to copy answers from a document with the word "sample" written across it into RPL workbooks. Ms Gomez said she completed four or five workbooks in this manner. She said Ms Radwanowski and her sister also completed some workbooks. Ms Gomez said the office at SIB was fairly small and Mr Wheeler came in and out of the office while she was completing the RPL workbooks. She said she understood security officers were required to complete the workbooks so they could obtain their security qualifications.

In the light of the above evidence the Commission is satisfied that Ms Radwanowski, Ms Gomez and other SIB employees completed parts of or whole RPL workbooks using answers that had been supplied to Mr Wheeler by Mr Hyland and submitted these workbooks to Mr Hyland as evidence in support of the RPL applications of various security officers associated with SIB. The Commission is also satisfied that Mr Hyland knew these workbooks did not represent the extent of knowledge or competency of these officers as he provided the answers appearing in the workbooks. Nevertheless he knowingly issued certificates of competency in favour of these officers which falsely represented that they had demonstrated prescribed competencies.

Mr Wheeler said he left the handling of all the paperwork relating to RPL applications to Ms Radwanowksi. Mr Wheeler said Mr Hyland charged him $325 for each RPL application and he charged each security officer $400 for his role in ensuring the paperwork was forwarded to Mr Hyland.

Mr Wheeler said he was aware that various RTOs adopted different means of conducting an RPL assessment and that Mr Hyland, through Roger, relied upon candidates to complete a knowledge test and provide documentary evidence in support of their RPL applications.

Mr Wheeler agreed he had received the answers from Mr Hyland relating to static and mobile guarding and crowd control and forwarded them to Ms Radwanowski on 29 October 2008 so that she could provide them to security officers experiencing difficulties answering the questions in relation to these licence sub-classes. He said he knew Mr Hyland was also providing candidates with the answers to the RPL workbook. Mr Wheeler said he organised Mr Hyland to deliver training sessions in Coffs Harbour and Port Macquarie and assumed that Mr Hyland provided candidates at these training sessions with the answers to the RPL workbook because he had provided a copy to him.

Mr Wheeler said he was unaware that providing the answers in these circumstances was irregular because he understood that the knowledge test was conducted at Roger by way of an open-book examination and the documentary evidence submitted in support of an RPL application provided a trainer with a better appreciation of a guard's competency. He said he thought the knowledge test was unnecessary in the light of other assessment tools available to a trainer.

It was submitted on behalf of Mr Wheeler that he was entitled to assume that the assessment process adopted by Roger through Mr Hyland was sanctioned by the SIR and Mr Wheeler, during his evidence before the Commission, sought to legitimise the practice of providing answers by equating it to an open-book test. However, the Commission considers this explanation less than credible as Mr Wheeler acknowledged that the concept underlying an open-book test, that is, a test of knowledge during which a student may refer to books or other resources, is different from providing a candidate with the answers to the questions.

Mr Wheeler also sought to justify the provision of answers to RPL applicants on the basis that the knowledge test contained in the RPL workbook was not the only form of assessment relied upon to assess competency. However, it is not sufficient for Mr Wheeler to suggest that only part of the assessment process was conducted improperly. Furthermore, Mr Wheeler said he was aware that the purpose of the legislative changes affecting security licensing was to ensure that the security licence holders met a particular standard and a knowledge test was one means of assessing whether a candidate possessed a level of knowledge commensurate with this standard.

Mr Wheeler denied he directed Ms Radwanowski to complete workbooks or employed casual staff to complete workbooks using the answers provided by Mr Hyland. He said Ms Radwanowski undertook that exercise on her own without his direction. He said he employed Ms Radwanowski's sister to assist in the compilation of documents that were to be submitted to Mr Hyland as part of the RPL process and not to complete workbooks.

Mr Wheeler said he had no knowledge of the email sent by Ms Radwanowski on 29 December 2008 in which she offered to complete workbooks for security officers. He said she did not discuss this matter with him.

Mr Wheeler's legal representative submitted that Ms Radwanowski's and Ms Gomez's assertion that they were directed by Mr Wheeler to complete workbooks on behalf of security officers should not be believed. In respect of Ms Radwanowski, it was submitted that she disliked the security industry in general and SIB in particular and had an interest in minimising her role and exaggerating the role of Mr Wheeler in order to implicate him in misconduct. In relation to Ms Gomez it was submitted that her recollection of events was poor and it was reasonable to expect that she would side with Ms Radwanowski.

The Commission is satisfied, however, that Mr Wheeler did direct Ms Radwanowski and other staff members to complete parts or the whole of RPL workbooks on behalf of security officers and tried to conceal his involvement in this activity during his evidence before the Commission. The evidence given by Ms Radwanowski and Ms Gomez was, in effect, an admission against interest and the account of Ms Radwanowksi that Mr Wheeler made a direction to complete the workbooks on behalf of security officers is corroborated by Ms Gomez.

The Commission also considers it improbable that Ms Radwanowski forwarded an email which contained an offer to complete the workbooks and a quote for the cost of doing so without first obtaining Mr Wheeler's approval. She had no opportunity to make a financial benefit from this arrangement as payment for the service was to be offset against the money owed to the other company. In addition, Ms Radwanowski stated in the email that the workbooks took six hours to complete and it is unlikely that she would have offered to expend her or another's time in this manner without first gaining the approval of Mr Wheeler to do so.

Furthermore, Mr Wheeler said that Ms Radwanowski told him that she had reformatted certain sets of answers before she distributed them to security officers to ensure they did not look the same. The Commission considers it is unlikely she would have discussed doing so with Mr Wheeler in the context of distributing answers to security officers. Ms Radwanowski had no reason to reformat the answer sheets if they were only meant as an aid to security officers in completing their workbooks. The Commission considers it more likely that Mr Radwanowski told Mr Wheeler that she had reformatted the answers in the context of preparing the bodyguarding and dog handling answers in accordance with Mr Hyland's instructions.

In the light of the above analysis, the Commission is satisfied that Mr Wheeler directed Ms Radwanowski, Ms Gomez and other SIB employees to complete RPL workbooks on behalf of security officers either employed by or associated with SIB using answers provided to him by Mr Hyland. The Commission is also satisfied that Mr Wheeler knew that Mr Hyland, by purporting to rely on these answers as part of the basis for issuing certificates of competency to security officers employed by or associated with SIB, was acting improperly and that Mr Wheeler intended to assist Mr Hyland in that regard.

There is little direct evidence before the Commission indicating that Ms Gomez or Ms Radwanowski, at the time they completed the workbooks or in the case of Ms Radwanowski organised their completion, did so knowing they would be improperly used by Mr Hyland as a basis upon which to issue certificates of competency. Ms Gomez said she had a "feeling it was wrong". Ms Radwanowski was not questioned during her evidence before the Commission at the public inquiry about her state of mind at the relevant time. Both witnesses knew, however, that the workbooks were meant to be completed by the security officers and formed part of the material upon which an assessment was to be made of an officer's competency. The Commission considers that these circumstances give rise to a strong inference that Ms Radwanowski and Ms Gomez knew at the relevant time that it was improper to complete the workbooks on behalf of the security officers. The Commission, however, does not express a concluded view about this for the following reason.

The Commission has found that Mr Wheeler directed Ms Radwanowski and Ms Gomez to complete the workbooks in the course of their employment. The direction was improper and Ms Radwanowski and Ms Gomez should not have followed it for that reason. The Commission is satisfied that they were given this direction by Mr Wheeler for the purpose of furthering his business interests which included ensuring that security officers associated with SIB obtained their security licences before the expiry of the deadline imposed by the SIR and organising cash payments in favour of SIB from security officers on whose behalf certificates were obtained. The Commission considers that these circumstances justify the exercise of a discretion not to make corrupt conduct findings against Ms Radwanowski and Ms Gomez.

Shane Camilleri

José Sanz told the Commission he decided to renew his security licence in July 2008 and met Mr Camilleri who had recently commenced working as a trainer at Roger. Mr Sanz told Mr Camilleri he had not worked regularly in the security industry for a few years. He said he provided Mr Camilleri with a copy of his security licence. However, he said Mr Camilleri did not ask for copies of any other supporting documentation and undertook to provide him with a false employment reference. He paid Mr Camilleri $300.

On 30 July 2008, Mr Camilleri forwarded an email to Mr Sanz attaching a copy of the answers to portions of an RPL workbook together with a copy of the marking guide for Roger's literacy and numeracy test. Mr Sanz said it was possible he used the answers provided to him by Mr Camilleri to answer some of the questions in the workbook. Mr Sanz said he was unable to complete various exercises in the workbook and returned the workbook to Mr Camilleri in an unfinished state.

Mr Camilleri admitted sending the email to Mr Sanz. He said he created a false work reference on behalf of Mr Sanz because Mr Sanz was not working in the industry at the time. Mr Camilleri inserted Mr Sanz's name into an employment reference which related to another security officer. Mr Camilleri said he created the reference, which falsely represented that Mr Sanz was currently employed in the security industry, with the intention of deceiving officers at the SIR. Mr Camilleri said he provided Mr Sanz with improper assistance because he was a friend.

Mr Camilleri said he gave officers undertaking the RPL process the answers to the workbook on 10 or 15 occasions and did so because he may have known them.

The Commission is satisfied that Mr Sanz knew the certificate of competency issued to him by Mr Camilleri was misleading because the employment reference which formed part of the evidence upon which the certificate was issued was false and that he possessed this knowledge when he used the certificate in the course of successfully applying to the SIR for an unrestricted licence.

Mr Camilleri said he also referred security officers to Mr Merchant for the purpose of obtaining a First Aid certificate without undertaking any first aid training. He said he knew the SIR would rely upon First Aid certificates issued in these circumstances in order to determine whether a security industry licence should be granted.

Other registered training organisations

In addition to Roger, the Commission also examined the activities of three other RTOs. These are dealt with below.

Nationwide Security Training Academy

John Shipway is the principal of Nationwide Security Training Academy ("Nationwide"), an RTO operating from Boambee, south of Coffs Harbour, and engaged in the delivery of security training.

Security officers applying to Nationwide for a certificate of competency in security operations after 1 September 2007 were required to attend a lecture delivered by Mr Shipway; produce documentary proof of their existing or recent experience in the job role relating to the licence sub-class sought; and satisfactorily complete questions contained in a workbook as further proof of their competency.

In April 2008 Joshua Apps, a security officer and part owner of AFU Protective Services, a security company, attended Nationwide for the purpose of obtaining a certificate of competency in security operations by way of RPL. Mr Shipway provided Mr Apps with a workbook which contained a description of the documentary evidence he was required to produce as proof of his competency and a knowledge test he was required to complete as an aid in that proof.

Mr Shipway later gave Mr Apps a compact disc which contained various document templates and the answers to the questions contained in the workbook he had earlier provided to Mr Apps. Mr Shipway said he gave the templates to Mr Apps because he understood that Mr Apps had recently established a security business and needed documents such as occupational health and safety policies for the day-to-day running of the business. Mr Shipway said he had not intended to provide Mr Apps with the answers to the workbook questions and had inadvertently included them on the compact disc when he created it.

Mr Apps said he copied some of the answers on the compact disc into the workbook and used other answers as an aid to formulating a response to questions contained in the workbook. Mr Apps said he did not know the answers were on the compact disc when he received it from Mr Shipway and did not enter into a discussion with him about the presence of the answers on the compact disc at any time. Mr Apps said he paid Mr Shipway $400 for his RPL application but did not pay him any extra money for the disc containing the templates and answers.

Mr Apps denied that he knew that by using the answers in this manner he was not properly answering the questions in the workbook. In the absence of any other evidence relevant to Mr Apps' state of mind at the time he completed the workbook, the Commission is not satisfied that there is sufficient evidence to find that he knew or believed he was acting dishonestly by using the answers provided to complete the workbooks.

It was submitted by Mr Shipway's legal representative that Mr Shipway did not provide the compact disc to Mr Apps for any dishonest or fraudulent purpose and in these circumstances a finding of corrupt conduct on the part of Mr Shipway was not open to the Commission. The Commission has some reservations about accepting as credible the explanation by Mr Shipway that the inclusion of the answers on the compact disc was inadvertent. If so, it was conduct that showed a remarkable degree of negligence on his part. However, the Commission

accepts that in the light of the evidence of Mr Shipway and Mr Apps there is insufficient evidence to find that Mr Shipway provided the compact disc to Mr Apps knowing it contained the answers to the workbook questions.

The templates provided to Mr Apps by Mr Shipway included, amongst other things, a template of an employment reference which provided a means by which an employer of a security officer could attest to the competency of his employee, an occupational health and safety policy, a template for recording an occupational health and safety meeting and a template that could be used as a risk assessment checklist. Mr Apps used these templates and others to create documents which he presented to Mr Shipway as evidence in support of his RPL application. Mr Shipway said he relied upon these documents in the course of assessing Mr Apps' RPL application and knew they were based on the templates he had provided to him.

Mr Shipway was reluctant to agree he provided Mr Apps with the templates to assist him with his RPL application. He maintained it was for the purpose of providing Mr Apps with various workplace documents he needed to develop his business. While some of the templates appear to have been used by Mr Apps in this manner, the Commission is satisfied that other templates, in particular the employment reference, were provided by Mr Shipway for the sole purpose of assisting Mr Apps to complete his RPL application.

The Commission is of the view that Mr Shipway acted inappropriately by providing Mr Apps with various templates. The inability of Mr Apps to provide samples of work documents and other documentary evidence to support his RPL application should have alerted Mr Shipway to the need to require Mr Apps to demonstrate his competency, if possible, in another way.

The training guidelines governing the assessment of Mr Apps required Mr Shipway to assist the applicant to identify the manner in which he could establish proof of competency and specified various ways in which that could be achieved including observing the applicant in the workplace or engaging the applicant in practical demonstrations. The guidelines do not contemplate that Mr Shipway could provide the applicant (Mr Apps) with the means to create various forms of documentary evidence which he could later use in support of his RPL application.

Furthermore, it was Mr Shipway's obligation to ensure that the evidence provided by Mr Apps was authentic. The Commission is satisfied that having inappropriately provided Mr Apps with various templates there was an even greater onus on Mr Shipway to ensure that any document provided by Mr Apps based on these templates was authentic. However, Mr Shipway failed to make these checks at all or did so in an inadequate manner. For example, Mr Apps produced an employment reference based on the template provided by Mr Shipway which purported to have been prepared by Robert Fletcher, Mr Apps' business partner, and which represented that Mr Fletcher was satisfied that Mr Apps was competent in relation to all the standards of competency relevant to the licence sub-class sought by Mr Apps. The document, however, was not signed by Mr Fletcher. As Mr Shipway provided the template for this reference he should have made enquiries with Mr Fletcher to ensure that the document was authentic. However, Mr Shipway said when he assessed the document the absence of the signature did not cause him any concern. Mr Apps also produced a workplace document, based on the template provided by Mr Shipway, evidencing his attendance at an occupational health and safety meeting. Mr Shipway said he confirmed with Mr Apps that these types of meetings had occurred at his workplace. However, the Commission believes that in the circumstances the onus was on Mr Shipway to make enquiries independently of Mr Apps before accepting the authenticity of this document.

There was no evidence placed before the Commission indicating that the employment reference and other workplace documents produced by Mr Apps were false or known by Mr Shipway to be false. The Commission is satisfied that Mr Shipway's conduct in providing various templates to Mr Apps and his failure to check the authenticity of documents based on those templates fell well short of the training guidelines. However, in the absence of any other evidence the Commission is not satisfied that Mr Shipway's conduct in this regard was dishonest.

Security Training and Tactics Pty Limited

In addition to the requirement to check the authenticity of evidence provided in support of an RPL application the security training guidelines required assessors to conduct face-to-face meetings with an RPL candidate. The purpose of these meetings was to explain the assessment process to the candidate, assist the candidate to identify the nature and type of evidence needed to be produced, advise the candidate about any concerns held in respect of the evidence produced and arrange for additional evidence to be collected if required.

The Commission examined a number of RPL applications assessed by Stuart Brooks, the Operations Manager and a trainer at Security Training and Tactics Pty Limited ("STAT"), an RTO operated by Craig Murray, a member of the Institute of Security Executives. These applications had been made by security officers employed by H&H Security, a provider of security services. A review of the

files indicated that Mr Brooks had relied upon Mary Grech, one of the principals of H&H Security, to compile evidence in support of her employee's RPL applications and failed to conduct any face-to-face meeting with the security officers at any stage of the assessment process.

Mr Brooks said he had an initial meeting with Ms Grech and two others at H&H Security but had no meeting or contact of any kind with any of the other 22 security officers at H&H Security for whom he issued certificates. He said he exclusively relied upon the documentary evidence provided to him by Ms Grech as a basis for issuing the certificates. However, a cursory examination of this material revealed it contained errors and misstatements about the nature and extent of various employees' work experience that should have alerted Mr Brooks to the need to confirm the accuracy of the material with the applicant. Mr Brooks said he failed to identify these anomalies during his assessment of the evidence.

Mr Brooks said that in order to process an RPL application he generally relied upon the documentary evidence produced on behalf of the applicant by his employer. He said he was not aware nor had he ever been told by Mr Murray, his employer, that he was required to meet with RPL applicants or to conduct his assessment of their competency in a manner different from the method he employed in respect of the officers at H&H Security. Mr Murray agreed he did not adopt the process of interviewing RPL candidates.

The Commission is not satisfied that the production of documentary evidence relieved an assessor of the requirement, set out in the security training guidelines, to meet with and interview RPL candidates. However, there is no evidence before the Commission indicating that the conduct of Mr Brooks or Mr Murray was dishonest.

Portfolio Training Academy

Security trainers were also required to apply for a security licence under the amended Security Industry Act.

John Murray is the master licence holder of Portfolio Training Academy, ("Portfolio") an RTO approved to conduct security training. He employed Steve Fisher as a trainer. Mr Murray and Mr Fisher submitted documentary evidence to Roger in support of their RPL applications and in return Mr Murray had agreed to assess the RPL applications of various trainers at Roger. Mr Murray and Mr Fisher said that Portfolio never received any documentation from trainers at Roger in support of their RPL applications. Nevertheless, Mr Murray directed Mr Fisher to issue certificates of competency to the Roger trainers and received their certificates in return.

Mr Murray said he allowed certification of the Roger trainers in the absence of supporting documentation because he believed that as trainers they already held qualifications that were of a higher standard than those he caused to be issued to them. While this does not appear to accord with the training guidelines, in the absence of other evidence the Commission is not satisfied that this amounts to dishonest conduct on the part of Mr Murray.

Chapter 4: Findings of fact and corrupt conduct

This chapter sets out the Commission's findings of fact and corrupt conduct and contains statements under section 74A(2) of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act").

Findings of fact

Based on the evidence set out in this report the Commission is satisfied to the requisite degree that the following facts have been established:

1. At all material times Ahmed Moosani was the principal of Roger Training Academy, a registered training organisation.
2. Mr Moosani issued certificates of competency in the pre-licensing course which contained false representations that various persons including Nick Bosynak had demonstrated the prescribed competencies for that qualification knowing that the recipients of the certificates would use them in applying to the Security Industry Registry for a provisional security licence.
3. Tibi Brandusoiu knowingly arranged for Mr Bosynak to obtain a certificate of competency from Mr Moosani, which falsely represented that Mr Bosynak had demonstrated prescribed competencies, for the purpose of Mr Bosynak obtaining a provisional security licence.
4. Mr Bosynak obtained his provisional security licence from the Security Industry Registry in circumstances where he knowingly relied upon the false certificate of competency.
5. Mr Moosani permitted trainers in his employ at Roger Training Academy to issue certificates of competency which contained false representations that various persons had demonstrated prescribed competencies knowing that the recipients of the certificates would use them in applying to the Security Industry Registry for an unrestricted security licence.
6. Ali Merchant, with the knowledge and assent of Mr Moosani, issued First Aid certificates which he knew contained false representations that various persons had successfully demonstrated competency in First Aid knowing that the recipients of the certificates would use them in applying to the Security Industry Registry for an unrestricted security licence.
7. Mr Merchant provided Recognition of Prior Learning applicants with the answers to questions contained in Roger Training Academy workbooks with the intention of improperly assisting them to obtain a certificate of competency from Roger Training Academy knowing that the recipients of the certificates would use them in applying to the Security Industry Registry for a security licence.
8. At the request of Mr Merchant, Vivek Raghavan, in return for cash payments, created false work references which he provided to Mr Merchant knowing the references would be improperly used by Mr Merchant as evidence in support of the issue of certificates of competency. Mr Raghavan also knew that Recognition of Prior Learning candidates issued with certificates of competency in these circumstances would use them in applying to the Security Industry Registry for a security licence.
9. Dru Hyland, Hamdi Alqudsi and Shane Camilleri provided Recognition of Prior Learning candidates enrolled at Roger Training Academy in the Certificate II and III courses with the answers to the workbook test. They knowingly issued or caused to be issued to these candidates certificates of competency which contained false representations that these candidates had demonstrated prescribed competencies knowing that they would use them in applying to the Security Industry Registry for an unrestricted security licence.
10. Messrs Hyland and Camilleri referred Recognition of Prior Learning candidates to Mr Merchant for the purpose of obtaining First Aid certificates which contained false representations that these candidates had successfully demonstrated competency in First

Aid knowing that the candidates would use them in applying to the Security Industry Registry for a security licence.

11. Mr Camilleri created a false work reference for José Sanz which he improperly included as evidence in support of the issue of a certificate of competency to Mr Sanz. Mr Camilleri knew Mr Sanz would use the certificate in applying to the Security Industry Registry for a security licence.

12. Mr Sanz knew that a false employment reference created by Mr Camilleri formed part of the evidence upon which a certificate of competency was issued in his favour and used the certificate in applying to the Security Industry Registry for an unrestricted licence.

13. At the direction of Craig Wheeler, Elisha Radwanowski, Sharmani Gomez and other Security Industry Brokers employees completed parts of or whole Recognition of Prior Learning workbooks using answers that had been supplied to Craig Wheeler by Dru Hyland and submitted these workbooks to Dru Hyland as evidence in support of the Recognition of Prior Learning applications of various security officers associated with Security Industry Brokers. Dru Hyland knew these workbooks did not represent the extent of knowledge or competency of these officers as he provided the answers appearing in the workbooks. Nevertheless, he knowingly issued certificates of competency in favour of these officers which falsely represented that prescribed competencies had been demonstrated. Craig Wheeler knew that Dru Hyland was acting improperly by using the workbooks as a basis for issuing false certificates of competency and, by directing his employees to complete the workbooks, Craig Wheeler intended to assist Dru Hyland in that regard. Craig Wheeler also knew that officers would use the certificates in applying to the Security Industry Registry for a security licence.

Corrupt conduct

Corrupt conduct is defined in sections 7, 8 and 9 of the ICAC Act.

In determining findings of corrupt conduct the Commission has applied the approach set out in Appendix 2 to this report.

A corrupt conduct finding may be made relating to the conduct of persons who are not public officials, but whose conduct adversely affects or could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by a public official or any public authority. The Security Industry Registry is a public authority.

Ahmed Moosani

In the light of the factual findings set out above, the Commission finds that Ahmed Moosani, by issuing false certificates of competency in the pre-licensing course and permitting Mr Merchant and trainers in his employ to issue false certificates knowing in each case these certificates would be used in applying for a security licence, engaged in corrupt conduct on the basis that his conduct adversely affected, either directly or indirectly, the exercise of official functions by officers from the SIR (that is, those functions connected with the determination of an application for a security licence) and could involve fraud on his part and therefore comes within section 8(2)(e) of the ICAC Act.

Such conduct could also, for the purposes of section 9 of the ICAC Act, constitute or involve the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the *Crimes Act 1900* ("the Crimes Act") in relation to the pre-licensing course certificates;
- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act in relation to the pre-licensing course certificates;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to the certificates issued by Roger trainers and the First Aid certificates issued by Mr Merchant.

Ali Merchant

The Commission finds that Mr Merchant, by issuing false First Aid certificates, causing certificates of competency to be issued to recognition of prior learning ("RPL") applicants to whom he provided the answers to the RPL workbook test and using false employment references he obtained from Mr Raghavan as evidence in support of the issue of certificates of competency knowing in each case these certificates would be used in applying for a security licence, engaged in corrupt conduct on the basis that his conduct adversely affected, either directly or indirectly, the exercise of official functions by officers from the SIR (that is, those functions connected with the determination of an application for a security licence) and could involve fraud on his part and therefore comes within section 8(2)(e) of the ICAC Act.

Such conduct could also, for the purposes of section 9 of the ICAC Act, constitute or involve the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to the First Aid certificates;

- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act in relation to the First Aid certificates;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to certificates issued to candidates to whom he provided the answers to the workbook questions or in respect of whom he obtained false employment references.

Hamdi Alqudsi

The Commission finds that Mr Alqudsi, by providing RPL candidates enrolled at Roger with the answers to the RPL workbook test and issuing or causing to be issued to these candidates false certificates of competency knowing that they would use them in applying for an unrestricted security licence, engaged in corrupt conduct on the basis that his conduct adversely affected, either directly or indirectly, the exercise of official functions by officers from the SIR (that is, those functions connected with the determination of an application for a security licence) and could involve fraud on his part and therefore comes within section 8(2)(e) of the ICAC Act.

Such conduct could also, for the purposes of section 9 of the ICAC Act, constitute or involve the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act;
- issuing a false or misleading qualification certificate contrary to clause 15(2) of the Security Industry Regulation;
- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act.

Dru Hyland

The Commission finds that Mr Hyland, by issuing or causing to be issued to RPL candidates false certificates of competency and referring RPL candidates to Mr Merchant for the purpose of obtaining false First Aid certificates knowing in each case that these candidates would use the certificates in applying for an unrestricted security licence, engaged in corrupt conduct on the basis that his conduct adversely affected, either directly or indirectly, the exercise of official functions by officers from the SIR (that is, those functions connected with the determination of an application for a security licence) and could involve fraud on his part and therefore comes within section 8(2)(e) of the ICAC Act.

Such conduct could also, for the purposes of section 9 of the ICAC Act, constitute or involve the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act;
- issuing a false or misleading qualification certificate contrary to clause 15(2) of the Security Industry Regulation;
- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to the First Aid certificates issued by Mr Merchant.

Shane Camilleri

The Commission finds that Mr Camilleri, by issuing or causing to be issued to RPL candidates false certificates of competency, referring RPL candidates to Mr Merchant for the purpose of obtaining false First Aid certificates and creating a false work reference for Mr Sanz which he included as evidence in support of the issue of a certificate of competency to Mr Sanz knowing in each case that these candidates would use the certificates in applying for an unrestricted security licence, engaged in corrupt conduct on the basis that his conduct adversely affected, either directly or indirectly, the exercise of official functions by officers from the SIR (that is, those functions connected with the determination of an application for a security licence) and could involve fraud on his part and therefore comes within section 8(2)(e) of the ICAC Act.

Such conduct could also, for the purposes of section 9 of the ICAC Act, constitute or involve the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act;
- issuing a false or misleading qualification certificate contrary to clause 15(2) of the Security Industry Regulation;

- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to the First Aid certificates issued by Mr Merchant.

Tibi Brandusoiu

The Commission finds that Tibi Brandusoiu, by arranging for Mr Bosynak to obtain a false certificate of competency from Mr Moosani for the purpose of Mr Bosynak obtaining a provisional security licence from the SIR, engaged in corrupt conduct on the basis that his conduct adversely affected, either directly or indirectly, the exercise of official functions by officers from the SIR (that is, those functions connected with the determination of Mr Bosynak's application for a security licence) and could involve fraud on his part and therefore comes within section 8(2)(e) of the ICAC Act.

Such conduct could also, for the purposes of section 9 of the ICAC Act, constitute or involve the following criminal offences:

- being an accessory before the fact to the offence of making a false or misleading statement contrary to section 178BB of the Crimes Act;
- being an accessory before the fact to the offence of making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act.

Vivek Raghavan

The Commission finds that Mr Raghavan, by creating false work references for the purpose of allowing Mr Merchant to include them as part of the evidence upon which certificates of competency were issued to RPL candidates and knowing those certificates would then be used by those candidates in applying for a security licence, engaged in corrupt conduct on the basis that his conduct adversely affected, either directly or indirectly, the exercise of official functions by officers from the SIR (that is, those functions connected with the determination of an application for a security licence) and could involve fraud on his part and therefore comes within section 8(2)(e) of the ICAC Act.

Such conduct could also, for the purposes of section 9 of the ICAC Act, constitute or involve the following criminal offences:

- being an accessory before the fact to the offence of making a false or misleading statement contrary to section 178BB of the Crimes Act;
- being an accessory before the fact to the offence of issuing a false or misleading qualification certificate contrary to clause 15(2) of the Security Industry Regulation;
- being an accessory before the fact to the offence of making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act.

Nick Bosynak and José Sanz

The Commission finds that Mr Bosynak and Mr Sanz, by knowingly using certificates of competency which falsely represented that they had demonstrated prescribed competencies in applying to the SIR for security licences, engaged in corrupt conduct on the basis that their conduct adversely affected the exercise of official functions by officers from the SIR (that is, those functions connected with the determination of an application for a security licence) and could involve fraud on their part and therefore comes within section 8(2)(e) of the ICAC Act.

Such conduct could also, for the purposes of section 9 of the ICAC Act, constitute or involve the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act;
- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act.

Craig Wheeler

The Commission finds that Mr Wheeler, by directing Ms Radwanowski and Ms Gomez to complete parts of or whole RPL workbooks on behalf of security officers employed by or associated with SIB knowing that Mr Hyland would act improperly by using the answers in the workbooks as a basis for issuing false certificates of competency and that those officers would use the certificates in applying to the Security Industry Registry for a security licence, engaged in corrupt conduct on the basis that his conduct adversely affected, either directly or indirectly, the exercise of official functions by officers from the SIR (that is, those functions connected with the determination of an application for a security licence) and could involve fraud on his part and therefore comes within section 8(2)(e) of the ICAC Act.

Such conduct could also, for the purposes of section 9 of the ICAC Act, constitute or involve the following criminal offences:

- being an accessory before the fact to an offence of making a false or misleading statement contrary to section 178BB of the Crimes Act;

- being an accessory before the fact to an offence of making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act;
- being an accessory before the fact to an offence of issuing a false or misleading qualification certificate contrary to clause 15(2) of the Security Industry Regulation.

Section 74A(2) statements

In making a public report, the Commission is required by the provisions of section 74A(2) of the ICAC Act to include, in respect of each "affected" person, a statement as to whether or not in all the circumstances, the Commission is of the opinion that consideration should be given to the following:

(a) obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of the person for a specified criminal offence,

(b) the taking of action against the person for a specified disciplinary offence,

(c) the taking of action against the person as a public official on specified grounds, with a view to dismissing, dispensing with the services of or otherwise terminating the services of the public official.

An "affected" person is a person against whom, in the Commission's opinion, substantial allegations have been made in the course of, or in connection with, an investigation.

For the purposes of this report Ahmed Moosani, Ali Merchant, Hamdi Alqudsi, Dru Hyland, Shane Camilleri, Craig Wheeler, Tibi Brandusoiu, Vivek Raghavan, Nick Bosynak and José Sanz are "affected" persons.

Ahmed Moosani

Mr Moosani made a number of admissions when giving evidence to the Commission. These admissions, however, were made subject to a declaration pursuant to section 38 of the ICAC Act. The effect of this declaration is that his evidence cannot be used against him in any subsequent criminal prosecution, except for an offence under section 87 of the ICAC Act.

However, other evidence would be available to the prosecuting authority, most notably telephone intercept material and potential evidence from Mr Bosynak, Mr Brandusoiu, Mr Khan and Mr Merchant provided an appropriate means to secure their evidence can be found in light of their capacity to invoke the privilege against self-incrimination.

The Commission states that, pursuant to section 74A(2)(a) of the ICAC Act, it is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Mr Moosani for the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to the pre-licensing course certificates;
- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act in relation to the pre-licensing course certificates;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to the certificates issued by Roger trainers and the First Aid certificates issued by Mr Merchant;
- destroying a document relating to the subject matter of a Commission investigation contrary to section 88(1) of the ICAC Act in relation to his involvement on 10 March 2009 in the removal of material which he considered was capable of implicating himself and others in misconduct.

It is not necessary to make any statement in relation to any of the matters referred to in section 74A(2)(b) or (c) of the ICAC Act.

Ali Merchant

Mr Merchant made a number of admissions when giving evidence to the Commission. These admissions, however, were made subject to a declaration pursuant to section 38 of the ICAC Act. The effect of this declaration is that his evidence cannot be used against him in any subsequent criminal prosecution, except for an offence under section 87 of the ICAC Act.

However, other evidence would be available to the prosecuting authority, most notably telephone intercept material, evidence obtained by the Commission from its controlled operation, documentary evidence in the form of emails forwarded to Mr Raghavan and potential evidence from Mr Moosani, Mr Raghavan, Mr Alqudsi, Mr Hyland, Mr Camilleri and security officers who told the Commission that they were provided with the answers to the RPL workbook by Mr Merchant, provided an appropriate means to secure their evidence can be found in light of their capacity to invoke the privilege against self-incrimination.

The Commission states that pursuant to section 74A(2)(a) of the ICAC Act, it is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Mr Merchant for the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to the First Aid certificates;
- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act in relation to the First Aid certificates;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to certificates issued to candidates to whom he provided the answers to the workbook questions
- destroying a document relating to the subject matter of a Commission investigation contrary to section 88(1) of the ICAC Act in relation to his involvement on 10 March 2009 in the removal of material which he considered was capable of implicating himself and others in misconduct.

It is not necessary to make any statement in relation to any of the matters referred to in section 74A(2)(b) or (c) of the ICAC Act.

Hamdi Alqudsi

Mr Alqudsi made a number of admissions when giving evidence to the Commission. These admissions, however, were made subject to a declaration pursuant to section 38 of the ICAC Act. The effect of this declaration is that his evidence cannot be used against him in any subsequent criminal prosecution, except for an offence under section 87 of the ICAC Act.

However, other evidence would be available to the prosecuting authority, most notably telephone intercept material and potential evidence from Mr Moosani, Mr Merchant and security officers who told the Commission that they were provided with the answers to the RPL workbook by Mr Alqudsi, provided an appropriate means to secure their evidence can be found in light of their capacity to invoke the privilege against self-incrimination.

The Commission states that pursuant to section 74A(2)(a) of the ICAC Act, it is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Mr Alqudsi for the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act;
- issuing a false or misleading qualification certificate contrary to clause 15(2) of the Security Industry Regulation;
- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act.

It is not necessary to make any statement in relation to any of the matters referred to in section 74A(2)(b) or (c) of the ICAC Act.

Dru Hyland

Mr Hyland made a number of admissions when giving evidence to the Commission. These admissions, however, were made subject to a declaration pursuant to section 38 of the ICAC Act. The effect of this declaration is that his evidence cannot be used against him in any subsequent criminal prosecution, except for an offence under section 87 of the ICAC Act.

However, other evidence would be available to the prosecuting authority, most notably telephone intercept material, evidence obtained by the Commission from its controlled operation and potential evidence from Mr Rich, other security officers who told the Commission that they were provided with the answers to the RPL workbook by Mr Hyland, Ms Radwanowski, Mr Wheeler, Mr Moosani and Mr Merchant, provided an appropriate means to secure their evidence can be found in light of their capacity to invoke the privilege against self-incrimination.

The Commission states that pursuant to section 74A(2)(a) of the ICAC Act, it is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Mr Hyland for the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act;
- issuing a false or misleading qualification certificate contrary to regulation 15(2) of the Security Industry Regulation;
- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act;

- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to the First Aid certificates issued by Mr Merchant.

It is not necessary to make any statement in relation to any of the matters referred to in section 74A(2)(b) or (c) of the ICAC Act.

Shane Camilleri

Mr Camilleri made a number of admissions when giving evidence to the Commission. These admissions, however, were made subject to a declaration pursuant to section 38 of the ICAC Act. The effect of this declaration is that his evidence cannot be used against him in any subsequent criminal prosecution, except for an offence under section 87 of the ICAC Act.

However, other evidence would be available to the prosecuting authority, most notably documentary evidence in the form of the email forwarded to Mr Sanz by Mr Camilleri and the false employment reference created by Mr Camilleri and potential evidence from Mr Sanz, provided an appropriate means to secure his evidence can be found in light of his capacity to invoke the privilege against self-incrimination.

The Commission states that pursuant to section 74A(2)(a) of the ICAC Act, it is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Mr Camilleri for the following criminal offences:

- making a false or misleading statement contrary to section 178BB of the Crimes Act;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act;
- issuing a false or misleading qualification certificate contrary to clause 15(2) of the Security Industry Regulation;
- making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act;
- concurring in making a false or misleading statement contrary to section 178BB of the Crimes Act in relation to the First Aid certificates issued by Mr Merchant.

It is not necessary to make any statement in relation to any of the matters referred to in section 74A(2)(b) or (c) of the ICAC Act.

Craig Wheeler

Evidence available to the prosecuting authority against Mr Wheeler would include the potential evidence of Mr Hyland, Ms Radwanowski and Ms Gomez.

In written submissions provided to the Commission by Mr Wheeler's legal representative, it was submitted that the Commission should decline to give consideration to obtaining the advice of the DPP with respect to the prosecution of Mr Wheeler for the same reasons advanced in support of the submission that a corrupt conduct finding should not be made against Mr Wheeler. The Commission has indicated that it does not accept those submissions.

In addition, Mr Wheeler's legal representative provided the Commission with a number of statements made by persons who were connected with Mr Wheeler's business and provided an account which was favourable to him and unfavourable to Ms Radwanowski. Ms Davenport SC, Counsel Assisting the Commission, was not provided with these statements during the public inquiry. In these circumstances Counsel Assisting did not have an opportunity to consider whether the statements should have formed part of the evidence before the Commission at the public inquiry and, if so, whether and to what extent the makers of the statements should have been required to attend the Commission to give evidence.

The Commission, however, has had regard to these statements and is not of the view that they militate against the Commission considering obtaining the advice of the DPP with respect to the prosecution of Mr Wheeler.

The Commission states that pursuant to section 74A(2)(a) of the ICAC Act, it is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Mr Wheeler for the following criminal offences:

- being an accessory before the fact to an offence of making a false or misleading statement contrary to section 178BB of the Crimes Act;
- being an accessory before the fact to an offence of making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act;
- being an accessory before the fact to an offence of issuing a false or misleading qualification certificate contrary to clause 15(2) of the Security Industry Regulation.
- an offence of giving false and misleading evidence before the Commission contrary to section 87 of the ICAC Act in relation to his evidence that he did not direct Ms Radwanowski and others to complete RPL workbooks on behalf of security officers.

It is not necessary to make any statement in relation to any of the matters referred to in section 74A(2)(b) or (c) of the ICAC Act.

Tibi Brandusoiu

Evidence available to the prosecuting authority against Mr Brandusoiu would include telephone intercept material and potential evidence from Mr Bosynak and Mr Moosani, provided an appropriate means to secure their evidence can be found in light of their capacity to invoke the privilege against self-incrimination.

The Commission states that pursuant to section 74A(2)(a) of the ICAC Act, it is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Mr Brandusoiu for the following criminal offences:

- being an accessory before the fact to an offence of making a false or misleading statement contrary to section 178BB of the Crimes Act;
- being an accessory before the fact to an offence of making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act;
- an offence of giving false and misleading evidence before the Commission contrary to section 87 of the ICAC Act in relation to his denial that he knew that Mr Bosynak had not undertaken any coursework prior to obtaining his certificate in respect of the pre-licensing course.

It is not necessary to make any statement in relation to any of the matters referred to in section 74A(2)(b) or (c) of the ICAC Act.

Vivek Raghavan

Mr Raghavan made a number of admissions when giving evidence to the Commission. These admissions, however, were made subject to a declaration pursuant to section 38 of the ICAC Act. The effect of this declaration is that his evidence cannot be used against him in any subsequent criminal prosecution, except for an offence under section 87 of the ICAC Act.

However, other evidence would be available to the prosecuting authority, most notably documentary evidence in the form of email correspondence between Mr Raghavan and Mr Merchant and potential evidence from Mr Merchant and other security officers who benefited from the false employment references created by Mr Raghavan, provided an appropriate means to secure their evidence can be found in light of their capacity to invoke the privilege against self-incrimination.

The Commission states that pursuant to section 74A(2)(a) of the ICAC Act, it is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Mr Raghavan for the following criminal offences:

- being an accessory before the fact to the offence of making a false or misleading statement contrary to section 178BB of the Crimes Act;
- being an accessory before the fact to an offence of issuing a false or misleading qualification certificate contrary to clause 15(2) of the Security Industry Regulation;
- being an accessory before the fact to the offence of making a false or misleading statement or representation contrary to section 33(2)(a) of the Security Industry Act.

It is not necessary to make any statement in relation to any of the matters referred to in section 74A(2)(b) or (c) of the ICAC Act.

Nick Bosynak and José Sanz

Mr Bosynak made a number of admissions when giving evidence to the Commission. These admissions, however, were made subject to a declaration pursuant to section 38 of the ICAC Act. The effect of this declaration is that his evidence cannot be used against him in any subsequent criminal prosecution, except for an offence under section 87 of the ICAC Act.

Mr Sanz provided a statement to the Commission, following a promise that this information would not be used against him in criminal proceedings. As such, the evidence he has provided to the Commission and which may tend to incriminate him is not admissible against him in criminal proceedings.

Successful prosecution of Mr Sanz would depend upon the DPP securing the assistance of Mr Camilleri who improperly assisted him to obtain a certificate of competency. The Commission believes it is unlikely that the prosecuting authority would recommend this course. In respect of Mr Bosynak the Commission believes that, depending upon the outcome of the DPP's consideration of the admissible evidence available against Mr Moosani and Mr Brandusoiu, there is a reasonable prospect that he may be required to give evidence against these affected persons. In these circumstances it is unlikely that the DPP would recommend his prosecution.

Based on the findings outlined in this report, Mr Bosynak and Mr Sanz knowingly obtained their security licences by producing to the SIR certificates of competency that

falsely represented they had demonstrated the prescribed competencies. In these circumstances, the Commission recommends that the SIR consider revoking their security licences.

The Commission believes that consideration should not be given to any of the matters referred to in section 74A(2) of the ICAC Act in respect of these two affected persons.

Chapter 5: Corruption prevention

This investigation has shown that persons connected with Roger Training Academy ("Roger") successfully operated a number of lucrative schemes involving fraudulent training and certification. This behaviour commenced soon after Roger started operating in 2006 and dramatically increased during the licence upgrade process, which began in September 2007. As a consequence, thousands of security officers have been licensed based on fraudulent qualifications. As well as the fraudulent qualifications issued by Roger, many other security qualifications have been inappropriately issued by other registered training organisations ("RTOs") based on grossly inadequate recognition of prior learning ("RPL") assessment practices.

This chapter explores the factors that facilitated corrupt activity at Roger and allowed it to continue undetected and unimpeded by the regulators for so long. The relevant regulators in relation to occupational training in the security industry are the Security Industry Registry ("the SIR"), the Vocational Education and Training Accreditation Board ("VETAB") and, less directly, the approved security industry associations ("ASIAs") and the Security Industry Council ("the SIC"). It is their joint responsibility to ensure that security officers are adequately and appropriately trained and certified by RTOs acting in compliance with legislation and other requirements. WorkCover NSW is responsible for the regulation of First Aid certificates and the Office of Liquor, Gaming and Racing ("the OLGR") is responsible for Responsible Service of Alcohol ("RSA") and Responsible Conduct of Gaming ("RCG") certificates.

The chapter is presented in three sections. The first section looks at the relevant structural features of the context in which conduct investigated occurred. These include the long history of crime and corruption in the security industry, the recent moves towards self-regulation of the industry and the high level of control over security training and certification that has been placed in the hands of private training providers. This combination of factors created a high degree of corruption risk and should have been mitigated by the presence of a strong regulator. Instead, the regulation of security training was fragmented and confused, with no effective accountability for corruption prevention or detection.

The second section explores the actions and decisions of the regulators prior to and throughout the security licence upgrade process and examines their capacity to effectively regulate security training. In the decade prior to the 2007 security licence upgrade, there were a number of reviews and investigations that highlighted the corruption risks that existed in relation to the security industry generally, and security training in particular. As a result of these events, the regulators had a considerable amount of pertinent knowledge which they should have applied to the security licence upgrade to reduce the risks of corruption. However, instead of reducing the risks, the manner in which the upgrade was conducted provided increased corruption opportunities for unscrupulous operators such Messrs Moosani and Merchant and others from Roger Training Academy. It also allowed RTOs such as Security Training and Tactics Pty Limited ("STAT"), Nationwide Security Training and Portfolio Training Academy, to conduct recognition of RPL assessments that were in some cases of such poor quality as to make the process meaningless. The regulators failed to recognise this and, ultimately, the licence upgrade process failed in its objective to improve security officer skills and to eliminate undesirable security licensees and security training providers.

This section also looks at the regulation of First Aid, RSA and RCG certificates by WorkCover and the OLGR respectively. Persons associated with Roger Training Academy also engaged in corrupt or improper conduct in relation to the issuing of these certificates; however, neither of these agencies identified this corrupt behaviour or took any action to stop it.

The third section contains the Commission's recommendations. These are designed to strengthen the regulation of security training and certification by assigning primary regulatory responsibility to the SIR, reducing the control of the RTOs and improving corruption

risk management and reporting of corruption to the Commission. The recommendations are also aimed at addressing the issue of the legitimacy of licences issued during the upgrade process and improving VETAB's audit and compliance practices. The Commission also makes some recommendations to the OLGR and WorkCover in relation to determining the legitimacy of certificates issued by Roger Training Academy since 2006 and improving their corruption risk management practices to minimise future fraudulent certification.

1. Structural issues

The nature and growth of the security industry

The security industry has for many years experienced recognised problems, including poor service provision, fraudulent licensing, criminal activity and public safety issues. The *Security (Protection) Industry Act 1985* and corresponding Regulation were introduced in response to a number of inquiries which had revealed:

- prosecutions of security companies for misrepresentation of patrol and alarm monitoring services
- serious assaults and the failure of crowd controllers on licensed premises to protect patrons
- death, injury and serious threat to public safety as a result of armed conflict between armed robbers and cash in transit personnel.[1]

In the years until the repeal of this Act and its replacement by the *Security Industry Act 1997*, there were further reviews of the legislation as well as a number of other relevant reports, which identified further problems, notably the:

- *Final Report of the Royal Commission into the NSW Police Service 1997*, and the
- *Report of the Industrial Relations Commission (IRC) into the Transport of Cash and Other Valuables 1997*.

The relevant parts of the Royal Commission Report focused on networking between present and former members of the NSW Police Service and the security industry generally. The IRC Report was extensive, covering many aspects of the security industry, including the licensing and training of security industry personnel. The IRC Report also recommended an immediate overhaul of training procedures and trainers' qualifications.

Both the Royal Commission and the IRC reports were taken into account in the process of drafting the *Security Industry Act 1997* and the Security Industry Regulation 1998, which came into effect on 1 July 1998. The aim of the new legislation was to provide a higher level of training based on national competency standards and to exclude those whose background made them unsuitable for security work.[2]

On 2 December 1997, the Hon M.J Gallacher MP, on behalf of the Opposition in support of the Security Industry Bill, noted the:

> *… concerns that have arisen in the wider community in recent years following revelations of successive bodies of enquiry that have exposed both corrupt and unethical practices by public authorities and individuals involved in the security industry.*

Over ten years later, on 4 March 2008, the Hon David Campbell stated in the NSW Parliament, in response to a question without notice about the Security Industry Regulation, that "there is no doubt whatsoever that the security industry requires great vigilance".

A security licence is a valuable and desirable commodity on a number of levels. Its legitimate value is that it can provide otherwise unskilled workers with access to a

1. *Strategic Evaluation of Training in the Security Industry in New South Wales*, NSW Vocational Education and Training Accreditation Board, 2004, p. 12.

2. Security Industry Bill, Second Reading speech, NSW Parliament, 2 December 1997.

variety of types of security-related employment. There are many employers of security staff as well as opportunities to increase income by taking on extra shifts or working for multiple employers. However, a security licence also has value for others not seeking legitimate employment in the field:

- A security licence can provide a person with criminal intentions with improved opportunities to commit crimes by working as a security officer.
- It is useful as a proof of identity document. Under the "100 points system"[3], a licence or permit issued under NSW State law with a photo or signature is worth 40 points.

Any or all of these factors could serve to motivate individuals to seek to obtain a security licence by whatever means are available.

The situation may have been exacerbated by the growth of the security industry in NSW in recent years, peaking in the lead-up to the Sydney 2000 Olympics. The main industry body, the Australian Security Industry Association Ltd ("ASIAL"), noted that the industry has grown rapidly because:

> *With increasing demands on police resources to prevent, control and reduce crime and antisocial activities, there is growing pressure on businesses and individuals to assume responsibility for their own asset and personal protection through private security.*[4]

At the same time, there has also been a growth in the numbers of RTOs providing security training. In 1997, there were only seven training organisations in NSW delivering training in security guarding. In 2000, this number peaked at around 100. Many of the RTOs that emerged during this time were small security companies attempting to either cut their own training and education costs or to take the opportunity to diversify their business income streams. According to the SIR, as at 12 February 2009, there were 30 RTOs approved to offer security industry training for licensing purposes in NSW.

It is important that government regulators and policy makers consider this context when planning and implementing legislative and other change.

The move towards self-regulation

There are indications that the security industry is moving closer towards self-regulation. Individual security licensees are not permitted to offer their services independently and are only authorised to carry out security activities whilst employed by the holder of a master licence. Any business that engages in security activities or training must hold a master licence. Master licensees are required to hold membership of an approved security industry association ("ASIA"). Mandatory ASIA membership was adopted to facilitate a partnership approach between Government and industry, and to encourage the security industry as a whole to take greater responsibility for its own regulation[5]:

> *The legislation provides for co-regulation of the industry by NSW Police and the industry itself. Criminal behaviour is regulated by the Act and Regulation, and is enforced by NSW Police. Behaviour that is unprofessional and/or unethical, but not criminal, is co-regulated by the industry associations through a Code of Conduct. Evidence of breaches of this Code by the master licensee or his/her employees is initially dealt with by the relevant association. If this type of conduct continues however, it may ultimately result in a recommendation to the Commissioner that the Master licence be revoked. In the long term it is possible that the industry could be largely self-regulating.*[6]

However, as is discussed later in the chapter, not all ASIAs are currently capable of effectively carrying out their role in ensuring master licensee compliance with the legislation and the industry Code of Practice and their performance has not, to date, been well-monitored by the body tasked to do so: the Security Industry Council.

Self-regulation may or may not be appropriate in terms of some aspects of the security industry. However, it is important that government retains, and indeed strengthens its role in relation to those aspects of the industry relevant to security licensing, such as the training and certification process.

Private RTOs control all stages of the training and certification process

The NSW Government requires applicants for security licences to successfully complete the relevant occupational training. In the relatively recent past, occupational training in NSW was the exclusive responsibility of state-owned adult training facilities, such as Technical and Further Education ("TAFE") colleges. In more recent times, privately owned RTOs have taken over much of this training. Government is now largely reliant on these privately owned and,

3 Refer to *Financial Transaction Reports Act 1988* (Cwlth).

4 ASIAL 5-year Compliance Review 2001 -- 2006, November 2006, p. 6.

5 Regulatory Impact Statement, Subordinate Legislation Act 1989 , Security Industry Regulation 2006, NSW Ministry for Police, July 2006, p.7.

6 *Review report, Security Industry Act 1997 Security Industry Regulation 1998*, October 2004, p.18.

of necessity, profit-driven RTOs for the provision of security training.

RTOs that are approved to provide security training effectively control all stages of the process, including enrolment, conducting the training, developing and implementing the literacy and numeracy testing, conducting workplace and other assessments including RPL assessments, and issuing qualifications. They have what can be termed 'end-to-end' control.

State regulators must always remain aware that all privately owned RTOs, even the ethical ones, are businesses and not public service providers. Consequently, their highest imperative must be profit and they will maximise that profit in whatever legal or illegal ways they can, depending on their level of integrity. In his evidence to the Commission Mr Moosani agreed that the "running of Roger was really all about the money".

The corruption risks associated with any function for which Government is responsible can never be transferred to the private supplier. Outsourcing a function to the private sector can often pose greater corruption risks and is, consequently, not always a less expensive or easier option for Government, particularly if government inadequately manages these risks. When state-issued occupational licences, such as security licences, are reliant upon the qualifications issued by privately owned RTOs, the state regulators must ensure that they retain the ability to ensure the quality and integrity of this training. The higher the degree of control that is surrendered to the private RTO and the riskier the industry, the stronger the regulation should be. In relation to security training, this investigation has shown that this regulatory formula was not adhered to: surrender of end-to-end control was not balanced by a strong regulatory regime.

The regulatory regime is inadequate

The responsibility for the regulation of security licensing in NSW is shared by four bodies: the Security Industry Registry ("the SIR"); the Vocational Education and Training Accreditation Board ("VETAB"); the Security Industry Council ("the SIC"), and the group of ten peak industry associations or approved security industry associations ("ASIAs"). See Figure 1, page 44.

The regulation of security training and certification also involves each of these four to some degree. This regulation is fragmented, without clear accountabilities, consistent communication or any overall coordination and has not ensured the integrity of the process. This is perhaps unsurprising, as no single body has assumed ultimate responsibility for ensuring that all aspects of regulation relating to security training and certification have been addressed.

Security Industry Registry

The SIR is the administrative body of the NSW Police Force that deals with security licensing of persons within New South Wales. It was established in April 1998 to introduce and administer the *Security Industry Act 1997* and Security Industry Regulation 1998 under delegation from the NSW Commissioner of Police. The SIR describes its core business as the "issue, refusal, suspension and/or revocation of security licences and the maintenance of licensing information".[7] The Registrar of the SIR reports to the Commissioner of Police through the Director, Investment and Commercial Services and the Executive Director, Corporate Services.

The SIR's governing legislation indicates that the SIR has a degree of accountability for the integrity and legitimacy of security officer training, assessment and certification. For example:

- the *Security Industry Act 1997* requires that the NSW Police Commissioner:
  - must refuse to grant an application for a licence if the Commissioner is satisfied that the applicant does not have the prescribed competencies and experience (section 15(1)(c))
  - may refuse to grant an application for a provisional licence if the person has not satisfactorily completed, an approved security industry training course (section 15(2)(b))
  - may refuse to reissue a Class 1 licence where the applicant has failed to demonstrate relevant continuing knowledge and competency (section 15(2)(c)(iii)).
- the Security Industry Regulation 2007 provides that in relation to the attainment of the approved competency standards a person who obtains, or attempts to obtain, or who creates, issues or produces any document in connection with that is false or misleading in a material particular is guilty of an offence (clause 15).

The confusion created by the fractured accountability system oversighting security training is shown by the seeming contradictions in a number of the SIR Registrar's statements to the Commission:

- He advised that "corrupt or fraudulent conduct by approved RTOs is the responsibility of the NSW Police Force", but he also stated that it is the responsibility of the "Department of Education and Training to identify and address security training

7 Regulatory Impact Statement, Subordinate Legislation Act 1989 , Security Industry Regulation 2006, July 2006, NSW Ministry for Police, p.7.

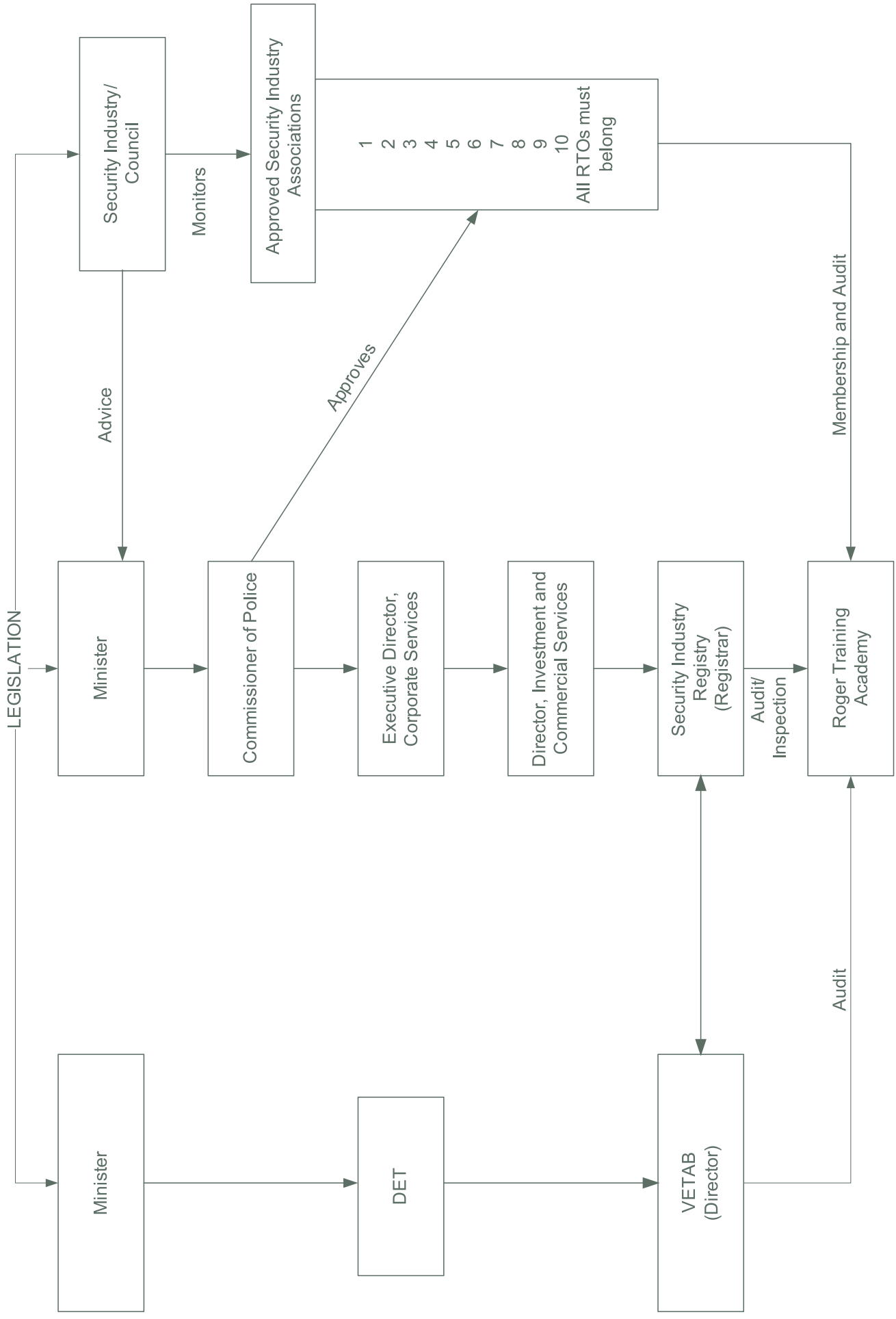

Figure 1: Regulation of the security industry

corruption risks that relate to the quality and integrity of the training process".

- He advised that in terms of "ensuring the integrity of the training programs we relied on the VETAB auditors and their assessment of these organisations". However, this appears to be in some conflict with an objective of the SIR's own Strategic Compliance and Enforcement Program, which is "to enhance the integrity of current licensing practices by identifying any weaknesses in the training delivery systems of approved RTOs".[8]
- He also stated both that the "regulation of industry training does not ... fall within the NSW Police Force's responsibilities" and that responsibility for ensuring that security officers were being trained as intended is a "shared responsibility", but primarily VETAB's responsibility "because they are the regulators of training".

In summary, he said that "the NSW Police Force is responsible for who can deliver security training and the Department of Education and Training is responsible for how training is delivered".

Vocational Education and Training Accreditation Board (VETAB)

VETAB is established under the *Vocational Education and Training Act 2005* ("the VET Act"). The Board is a statutory body representing the Crown. Under the VET Act, the Board is comprised of a director and 10 part-time members appointed by the Minister. The Board itself cannot employ any staff; however, staff may be employed under the *Public Sector Employment and Management Act 2002* to enable the Board to exercise its functions. It is the role of VETAB to register training organisations and to ensure compliance with national training standards. A training provider cannot conduct security training unless it is registered by VETAB.

VETAB's governing legislation indicates that, like the SIR, VETAB also has a degree of accountability for the integrity of security officer training, assessment and certification. The *Vocational Education and Training Act 2005* provides that:

- one object of the Act is "to ensure the quality and integrity of vocational education and training in this State"[9]
- the Board may cancel, suspend or amend registration if "the training organisation's financial arrangements or ethical standards are such that they would not warrant the registration of the training organisation if it were now to apply for registration".

Like the SIR Registrar, the statements of Ms Willis, Director of VETAB, are also confusing. Ms Willis' initial statement to the Commission advised that:

> *VETAB does not have responsibility to prevent and/or detect fraudulent behaviours by RTOs in relation to training courses, RPL and issuing qualifications. As VETAB does not have any responsibility to prevent and detect this type of fraudulent training activity, it does not have processes, systems or strategies in place to do so.*

Ms Willis also stated that corrupt conduct "is not a focus of our regulatory regime". However, in her evidence to the Commission's public enquiry, Ms Willis made a lengthy qualification to her initial statement to the Commission:

> *Well, I need to qualify that. I mean, what I was trying to say there that VETAB is concerned that RTOs only issue qualifications to students who've been adequately trained and appropriately assessed as being competent. We expect to find that some RTOs will fail to meet the standards through either negligence or through incompetent acts or omissions. We see our role as assisting non-compliant RTOs to become compliant whenever possible and we see our role as imposing sanctions. But … we don't expect to find RTOs will fail to meet standards and cover up non-compliance with deliberate falsehoods, but if we do we would refer those fraudulent and corrupt activities to the police as well as applying sanctions under the VET Act.*

The VETAB legislation clearly assigns a role to VETAB in ensuring the integrity of security officer training. Ms Willis' two statements to the Commission in this regard vary in terms of VETAB's responsibility and capacity. However, the evidence before the Commission about VETAB's regulation of Roger Training Academy tends to support the first account Ms Willis gave to the Commission, in her initial statement.

Approved Security Industry Associations

All master licensees must also hold membership of an approved security industry association ("ASIA"). The NSW Commissioner of Police has approved ten industry-based organisations for this purpose, however, ASIA membership by currently approved RTOs is confined to three associations – Australian Security Industry Association Ltd ("ASIAL"), Building Service Contractors Association of

8 Strategic Compliance and Enforcement Program, NSW Police Security Industry Registry, 28 February 2006.

9 Section 3 (b), *Vocational Education and Training Act 2005*.

Australia ("BSCAA") and Security Providers Association of Australia Limited ("SPAAL"). The other ASIAs only accept members operating in particular industry sectors, e.g. locksmiths. These three ASIAs also have a responsibility for ensuring the integrity of security training through their regulation of master licensees.

According to the NSW Security Industry Code of Practice, the role of the ASIAs is to provide a cooperative interface between the NSW Police and master licensees in order to promote industry professionalism, ethics and service delivery of a higher standard. ASIAs are obliged to ensure their membership complies with the Security Industry Act, Regulations, attendant legislation and the Security Industry Code of Practice. Non-compliance with the regulatory regime may lead to expulsion from an ASIA and revocation of a master licence. Unless the owner has a master licence, an RTO cannot conduct security training.

To qualify as an ASIA, an organisation must satisfy the NSW Commissioner of Police that it meets certain structural and financial criteria. It must also demonstrate its capacity to fulfil its legislative and industry responsibilities in a number of ways. These include providing a Code of Practice for members and demonstrating a capacity to audit all members on an ongoing basis to ensure compliance with that Code of Practice.

ASIAL, established in 1969, is the peak national body for the Australian security industry, representing approximately 85% of the industry. ASIAL advised the Commission that in response to the industry's rapid growth, Government had engaged the private security industry in an effort to establish higher standards of security industry practice, an efficient regulatory compliance system, and effective complaints management, while eliminating unacceptable behaviour among operatives. However, the responsibility of ensuring that their members comply with the legislative regime places a significant administrative and financial burden on ASIAs whose traditional core mandate as industry associations is not compliance or public administration but advocacy and other forms of member service.[10]

This investigation shows that not all ASIAs are fulfilling their regulatory role. Consequently, as we shall see later, master licensees like Mr Moosani can avoid audit by their ASIAs and the need to comply with the industry Code of Practice.

The Security Industry Council

Since September 2007, the Minister for Police has had authority under the *Security Industry Act 1997* to establish a Security Industry Council ("SIC"). The functions of the SIC include advising the Minister on the regulation of the security industry and monitoring the performance of the ASIAs. The 12 members are appointed by the Minister for Police. They include representatives from the Ministry for Police; the SIR; NSW Police Force; VETAB; Transport Workers Union; Department of Commerce; Qantas; Australian Liquor, Hospitality and Miscellaneous Union; Australian Bankers' Association and three ASIAs.[11]

After a disjointed history, the SIC was only reconvened in its present form in March 2008. It has advised the Commission that it has little or no policy determination or operational executive functions and is established primarily to provide advice to the Minister for Police on policy or operational issues.

Although the SIC has no operational role in relation to security licensing or training, it has an indirect responsibility for ensuring the integrity of security officer training and certification through its regulation of ASIAs. One role of the SIC is to monitor ASIA performance. This task is important if the ASIAs' regulatory role is to be meaningful. Evidence before the Commission indicates that the SIC does not yet have proper processes in place to assess and monitor the performance of ASIAs in regulating master licensees. Mr Bryan de Caires, Chief Executive of ASIAL, the largest ASIA and a member of the SIC, advised the Commission:

> *Well, I think, as I said the council was reformed and re-established back in March of last year, I think it's working through a series of priority areas for the council, one of which is to revise the code of conduct and I think the other area is to look at the performance of the approved associations but there's nothing tangible on that front yet.*

In Mr de Caires' opinion, "there needs to be stronger accountability of the ASIAs". In relation to how the SIC monitors the ASIAs, he advised that ASIAs have not been required to formally report to the SIC or "show anything in particular that we've been delivering over the last ten years in terms of KPIs, for example".

ASIAs must themselves be adequately overseen if they are to perform a meaningful role in the regulation of any aspect of the security industry. However, it seems that the SIC does not have proper processes in place to assess and monitor the performance of ASIAs.

10 ASIAL 5-year Compliance Review 2001 -- 2006, November 2006, p.6.

11 Section 42 of the *Security Industry Regulation 2007*.

2. The capabilities and actions of the regulators

NSW Police Force, the SIR and VETAB were aware of the problems in security training

Since 1997, there have been numerous reviews, reports and investigations concerning the corruption risks in security training and certification and RPL assessment and the widespread non-compliance among RTOs providing security training. As a consequence, the SIR and VETAB, individually and jointly, possessed a considerable amount of knowledge and experience in this regard. They should have applied this knowledge to the 2007 security licence upgrade process.

The Industrial Relations Commission Report, Strike Force Taichow and the Strategic Evaluation

In comparison to many other occupational areas, such as building or plumbing, training in the security industry has a relatively short, although troubled, history. Even before the creation of the SIR, there had been concerns about the quality of occupational training in the security industry. In 1997, Justice Peterson commented:

> *…the present system of regulation has operated ineffectively, in that it has permitted individuals with serious criminal convictions and others with insufficient qualifications or training to obtain licences entitling them to work in the security industry…*[12]

Justice Peterson's report recommended an immediate overhaul of training procedures and trainers' qualifications and prompted the introduction of the NSW *Security Industry Act 1997* and Security Industry Regulation 1998. The aim of the original 1997 legislation was similar to the 2007 amendments: to provide a higher level of training based on national competency standards and to exclude those whose background made them unsuitable for security work.[13] Another similarity was that security officers already in the industry were able to upgrade their qualifications without undertaking any further training, depending on the outcome of an RPL assessment.[14] This naturally begs the question, which cannot be answered by this investigation, as to whether and, if so, to what extent the aim of the 1997 legislation was similarly sabotaged by abuse of the RPL process.

In March 2001, the NSW Police Force instituted Strike Force Taichow ("Taichow"). Taichow operated until September 2003, investigating allegations about RTOs issuing fraudulent security qualifications. The SIR was aware of this investigation and the nature of the allegations at the time. The current SIR Registrar joined the SIR as Deputy Registrar in March 2003, six months before Taichow concluded. Inexplicably, he was not given a copy of the investigation's findings when they were released in December 2007, nor did he enquire about the investigation's conclusions at any time after it ended in 2003.

Taichow found that a number of persons had purchased their security qualifications without undertaking the requisite training or had been given assistance beyond what was appropriate. Many of these persons were unable to speak English. Taichow found that the persons of interest had been operating "illegally, corruptly and at the very least unscrupulously within the security industry and most likely for some time prior to the commencement of Strike Force Taichow and their activities were widespread".[15] The investigation involved a number of RTOs and many master licences and security licences were suspended as a result.

As a result of the Taichow investigation, the SIR raised concerns with VETAB about the quality of training being delivered by some RTOs. This led to their collaboration in 2002 to conduct a strategic evaluation of training in the security industry in NSW. In her evidence to the Commission, VETAB Director Margaret Willis said that the strategic evaluation confirmed their concerns, highlighting problems in many key areas including "learning and assessment strategies, assessment practices and legislative compliance".

The strategic evaluation report noted that "RTO systems and procedures were generally found to be of poor quality".[16] Of particular interest to this investigation, the evaluation found:

- Two-thirds of RTOs were non-compliant in records management, particularly in relation to the accuracy and currency of student records and the maintenance of appropriate records on file to demonstrate that proper assessment processes were being used.
- A number of RTOs were found to have issued training qualifications to their own training staff without any supporting evidence that training and assessment had occurred.
- Competency-based training and assessment was found to be poorly understood.

12 *Report of the Industrial Relations Commission (IRC) into the Transport of Cash and Other Valuables,* Industrial Relations Commission, NSW, 1997, p.17.

13 Security Industry Bill, Second Reading Speech, NSW Parliament, 2 December 1997.

14 *Review report, Security Industry 1997 Security Industry Regulation 1998*, October 2004, p.18.

15 Strike Force Taichow, Post Operational Assessment Report, 31 December 2007.

16 *Strategic Evaluation of Training in the Security Industry in New South Wales,* VETAB, 2004, p. 30.

As a result of the findings of these inquiries, the SIR and VETAB were well aware that there were serious problems in relation to the quality and integrity of security training, and the competence and ethical standards of RTOs.

VETAB and Operation Ambrosia

VETAB had direct and recent experience of corruption in occupational training through its involvement in Operation Ambrosia, another Commission investigation in 2005.[17] Ambrosia uncovered a diverse and extensive range of corrupt conduct associated with the issue of building trade qualifications relied on for the issue of building licences. It also identified unmanaged corruption risks regarding RPL. The conduct exposed in Ambrosia bears a number of close similarities to the conduct exposed in this investigation, for example:

- The scheme exploited weaknesses in the system for issuing building licences on the basis of applicants' prior experience and skills.
- Several of those who received qualifications admitted that they had never attended the RTO; others had attended only an introductory session.
- The RTO used RPL as a cover for issuing numerous fraudulent qualifications in a short period of time.
- VETAB did not hold any statistics about the number of qualifications issued by RTOs based solely on RPL.
- VETAB had no process for detecting suspicious activity regarding RPL.
- VETAB's audit of the RTO's records was flawed.

Operation Ambrosia provided VETAB with direct and relevant experience of corrupt conduct by an RTO, including the corrupt use of RPL. It should have applied this knowledge to the security licence upgrade process in September 2007.

The SIR and VETAB mismanaged the September 2007 licence upgrade process

Despite their concerns about the competence of security officers and the quality and integrity of security training, and their knowledge of past corruption in the industry, the SIR and VETAB did not apply this knowledge to the security licence upgrade process. They did not identify all the corruption opportunities or have in place successful strategies to minimise them or detect corrupt activity. The upgrade process increased the risk of corruption by increasing the opportunities and instead of solving the problems in relation to security training, it magnified them.

17 *Report on investigation into schemes to fraudulently obtain building licences*, Independent Commission Against Corruption, Sydney, December 2005.

The reasons for the security licence upgrade

The objective of the upgrade process was to address concerns about the quality of training in the security industry and the competence of security officers. It was expected to achieve this by increasing the skill levels of both security officers and RTOs and eliminating the undesirable and the incompetent in both groups.

The upgrade process was precipitated by the amendments to the *Security Industry Act 1997* and the Security Industry Regulation which were enacted on 1 September 2007. The changes to the legislation were based on a report which was tabled in Parliament on 20 October 2004.[18] Many submissions from agencies such as the NSW Police Force (including the findings of Strike Force Taichow), the SIR and VETAB were considered in the development of this legislation. The report made 30 recommendations for further improvements to the security industry including the expansion of the licence categories which led to the licence upgrade process.

When the *Security Industry Act 1997* was reviewed in 2004, it was recognised that there was a need for greater specialisation of licence categories and that the training should be more closely aligned to those categories. The changes to the Act increased the number of Class 1 and Class 2 licence subclasses from seven to 13. Prior to this change, Class 1A and Class 2C licences authorised a diverse range of activities. The classifications did not recognise that different skills were required for different activities. For example, a person holding the old Class 1A licence could perform duties ranging from monitoring centre operations to armed guarding. The new licence subclasses each provided a specific authority to undertake a certain type of security work, such as dog handling.

The new security training package was also tailored to the needs of each licence subclass. Instead of the previous generic security training, there was now a basic level of training plus additional, more specific, training for those security activities that required additional levels of competence, such as armed guarding or dog handling.

It was believed that, by refining the licence sub-classes and aligning the training competencies more closely with those sub-classes, security officers who could not meet those competency standards would not achieve certification and would be effectively excluded from that type of security work and possibly from the security industry as a whole.

Since 2002, the SIR had worked closely with VETAB to further identify and address deficiencies in training and assessment conducted by RTOs in NSW for the purposes of security licensing. The upgrade process was a chance to simultaneously address the problems of the past and raise

18 *Report of the Statutory Review of the Security Industry Act 1997 and the Security Industry Regulation 1998*, 20 October 2004.

the skill level of the entire industry. As Cameron Smith, the SIR Registrar, stated in his evidence to the Commission about the purpose of the security licence upgrade:

> *… So we needed to raise the skills of everyone and as I say that also presented us a rare opportunity to up-skill an entire industry or so we – that was the aim of the process as well and it was a recognition that people were licensed, we knew that people were licensed who – probably shouldn't have been on the basis of training that was done in the past, the mistakes of the past by RTOs.*

The upgrade process also offered the SIR and VETAB an opportunity to examine their own practices to determine whether any action or inaction on their parts had contributed to the problems in security training in any way. It does not appear that they did so. Such a review may have identified weaknesses in areas such as audit and inspection that could, as a consequence, have been strengthened for the upgrade process.

Poor corruption risk management – the upgrade increased the risk of corruption

It is evident from the statements of both the SIR Registrar and the Director of VETAB that they both were confident that the security licence upgrade process would address the quality and integrity issues they knew existed in relation to security training. They believed the licence upgrade would be "a line in the sand where the people that shouldn't have the licences would get weeded out of the system".

According to Ms Willis, they did not consider that the changes to the legislation could increase the opportunities for corrupt conduct. Unfortunately neither the SIR nor VETAB tested this assumption by undertaking an assessment of the full range of opportunities for fraudulent and corrupt conduct offered by the security licence upgrade process.

Following the September 2007 amendments to the security industry legislation, existing full security licence holders were required to obtain their new Certificate II and III in Security Operations. As they had previously completed qualifications for Certificate II and Certificate III and many of them had current or recent industry experience, the majority were able to complete their assessments for the new certificates by way of RPL. This meant that they could supply evidence of their prior learning to demonstrate competency in the relevant training units in order to gain their new qualifications. If they were unable to provide this evidence then they would be required to undertake some or all modules by way of classroom training and assessment.

The upgrade required approximately 30,000 Class 1 security officers to attend an RTO for assessment in relation to their chosen licence subclasses within a relatively short period of time. This scenario provided a once in a lifetime opportunity for RTOs to make a considerable amount of money very quickly. The need to recognise the prior learning of every security officer through RPL provided an opportunity for the greedier, less scrupulous RTOs to make even more money by corrupt, or at the very least shoddy, practices.

The corrupt practices at Roger Training Academy allowed it to provide a very attractive service to those security officers who wanted a quick, easy RPL process because they were lazy, busy, had poor English, feared that a rigorous RPL assessment would expose their skill deficiencies or did not wish to surrender their unused licence subclasses. As a result, Mr Moosani was rewarded with by far the largest share of the upgrade market (25.6%). By taking extreme RPL assessment shortcuts, other RTOs like STAT also secured a reasonably large share (about 10%).

Staff and trainers needed opportunities they could exploit without being detected. Mr Moosani already knew that he could get away with corrupt conduct in relation to security qualifications as he admitted to the Commission that he had been issuing fraudulent Certificate I security qualifications since 2006.

As a result of its experience in Operation Ambrosia, VETAB should have been well aware of the specific corruption risks posed by the use of RPL by RTOs. Certainly, it viewed RPL generally as a riskier form of assessment.

VETAB was not consulted about the use of RPL as an assessment option or in the model of RPL to be undertaken in the licence upgrade process. Even so, as a training expert, VETAB should have apprised the SIR of its experience in Operation Ambrosia and of the risks involved in RPL. It seems it did not do so.

Ultimately, the SIR and VETAB jointly failed to acknowledge and address the corruption opportunities that extensive use of RPL would offer opportunistic RTOs, like Roger. In the absence of a proper assessment of the situation, the changes they introduced in an effort to improve the system failed to achieve this objective and also increased the risk of corruption.

Inadequate regulatory capacity

The SIR and VETAB had concerns about the operations of Roger Training Academy long before the security licence upgrade process. However, they did not take effective action for over two years. This allowed Roger staff to continue to conduct their corrupt activities and then to

avail themselves of the even greater opportunities offered by the licence upgrade.

SIR complaint handling and investigations

The SIR does not have the capability to adequately investigate complaints about RTOs. It has no internal investigative capacity and is reliant on assistance from the NSW Police Force which, it appears, is not always available or effective. In addition, the SIR does not have appropriate computer systems to support its complaint handling and investigative function.

From as early as 2006 until at least late 2008, the SIR received numerous complaints about Roger Training Academy. The complaints included the conduct of training courses for less than the required hours, issue of qualifications to people who had not undertaken adequate training, issue of qualifications to people who did not have the necessary literacy and language skills, the use of unqualified trainers, subcontracting for the recruitment of trainees, false or misleading advertising..

Some of these complaints were received by the SIR prior to or around the time of the start of the September 2007 licence upgrade process (see Table 1, page 51). These complaints strongly indicated that things at Roger were not as they should have been. The complaints had substance: Mr Moosani has admitted that he was allowing corrupt behaviour at Roger from 2006. As Table 1 indicates, the SIR's response to these complaints was to include the information in their next audit of Roger Training Academy. As we will see in the next section, this was not an effective response.

The SIR was suspicious of Roger's activity from as early as 2006. As Cameron Smith, SIR Registrar, advised a colleague in an internal email:

> *Roger Training Academy is an RTO that we believe has been rorting the system from the outset but we've never been able to get them for anything other than "slap on the wrist" type breaches. There's been one incidence of a staff dob-in relating to it in the past but the person wasn't prepared to go on the record. We've been particularly concerned that this RTO is sourcing their students in large numbers from particular ethnic and religious groups (possible exploitation and disregard of literacy requirements).*

However, as the examples below indicate, the SIR did not have the capacity to uncover any useful evidence against persons at Roger Training Academy.

On 27 July 2006, Auburn licensing police advised the SIR that available information indicated that Roger was providing significantly less than the required 62 training hours before issuing successful completion advice to the SIR. Following up on these concerns, officers from Flemington licensing police conducted a field visit audit at Roger on 15 September 2006. No issues of significance were identified during this audit.

- On 30 November 2006, the SIR was advised that the NSW Firearms and Regulated Industries Crime Squad ("FRICS") had received information in relation to the training of security guards and the issuing of certificates. One of the persons of interest named was Dru Hyland. On 17 July 2007, the SIR was informed that FRICS had never investigated the matter.
- On 17 October 2007, Auburn police took a statement from a person who had attended the Certificate I in Security Operations (pre-licence) course delivered by Roger between 17 July 2006 and 29 July 2006. The statement raised concerns about the quality of Roger's training.
- On 15 November 2007, Mr Stcherbina, the SIR's Compliance Manager, requested Auburn police to obtain the statements of four other persons who had attended the course. Due to staffing issues, Auburn police were able to obtain only one other statement. Mr Stcherbina had hoped that if this statement had corroborated the statement he already held, then he could determine if there were enough grounds to initiate action against Roger. However, the statement taken on 5 December 2007 was insufficient to do so.

The SIR also failed to adequately follow through on some information it received that indicated misconduct at Roger. For example:

- On 29 January 2007 and 20 March 2007, the SIR identified two Roger security students with poor English language skills and inadequate understanding of what was required of them as licensed security operatives. In both cases, although Mr Moosani's explanations to the SIR about these anomalies were inadequate, the SIR advised the applicants to return to Roger for reassessment and validation of their qualifications.
- On 3 March 2008, two Roger trainers, Matthew Camilleri and Rohen Hancock, reported concerns to the SIR about Roger. The issues included students being placed on courses before receiving criminal records check from the SIR and students who had failed their literacy and numeracy assessments being passed by other trainers. They wanted to meet with the SIR to discuss these concerns. However, because they did not wish to make a formal written statement, the SIR declined their request to meet and did not interview them to try to obtain further information.

Table 1: Complaints made to SIR about Roger Training Academy prior to the licence upgrade process

Date received	Complaint	SIR response to the complaint
2 Dec 05	By a former employee of Roger in relation to Certificate I courses: • Whether the students attended class or not, they were given the answers to copy. Those who didn't attend class had to pay more than those who did. • Qualifications were given to all students whether or not they spoke English. • Students were also given qualifications through RPL with no proper assessment, just payment. • Mr Moosani subcontracted with a number of other RTOs, but if they were legitimate and failed unsatisfactory students, he withdrew from the contract. • The courses that were held were not of the proper duration: they started late and finished early in the day with the last day's training lasting one hour. Students picked up their qualifications as they left on the last day without assessments being marked.	Unknown
16 Jul 06	By same former employee of Roger: • Times on student attendance sheets did not reflect the actual hours of attendance • A Roger trainer had told a student that instead of completing the course, he could pay an extra $200 to the trainer and receive a pass in it. • Mr Moosani and another trainer allowed students to complete all their assignments at home and bring them back to be marked so that all the students would pass and gain the qualification and then from word-of-mouth he would get more clients. • If their workbooks were inadequate, Mr Moosani would give the students someone else's papers to take home and copy, so they would be passed by the trainer. • Instead of continuing 13 nights from 5 p.m. to 10 p.m., the evening course only lasted 9 nights from 5 p.m. to 7 or 8 p.m. • Mr Moosani knew about this abbreviated training but did not rectify it. • Mr Moosani allowed a new trainer to deliver all segments of training even though he did not hold a Certificate IV in Risk Management. To hide this from the SIR, Mr Moosani signed the qualifications instead of the trainer.	Complaint to be included among the issues to be raised in the audit of Roger
15 Nov 07	By the CEO of another RTO: • Students were completing the Certificate I course at Roger without receiving the required number of hours tuition • Students are being issued certificates despite poor English language skills • Mr Alqudsi had requested a job of this CEO claiming he could bring in over $200,000 a month in revenue by training Muslim, Middle Eastern students. • Mr Alqudsi also indicated he was training day and night courses and it is not possible to deliver quality training when working the hours this suggests.	Complaint to be included in future Roger audits.

The SIR was aware, by at least April 2008, that there were problems with the security licence upgrade process and had shared these concerns with VETAB. A letter from the SIR Registrar to the Director of VETAB, dated 11 April 2008, referred to their previous discussions about increasing concern that a "number of RTOs are damaging the integrity of the process of upgrading security industry licensees" and suggested a meeting to discuss these issues. It appears that whatever steps they took in response failed to immediately address the problem.

In September 2007, the SIR prepared an Intelligence Briefing Report on Roger Training Academy which summarised all the intelligence records held by the NSW Police Force in relation to Roger. Although the report noted that there were some "suspected fraudulent signature anomalies" and suspicions of "financial motive or gain at either management or trainer level", it found that the activity at Roger did not warrant allocation of resources for further investigation. The report concluded:

> *It is considered that, although information did suggest that the ORG* [organisation i.e. Roger Training Academy] *has been involved in suspect and deceptive operations and practices, the records are inconsistent and do not indicate any direct evidence or maintain absolute validity.*

To his credit, the SIR Registrar was not totally satisfied with this conclusion and, in November 2007, raised concerns about security training activities with his manager. He suggested that the SIR be assigned two police officers to assist in investigating the issues identified in the Intelligence Briefing Report on Roger Training Academy. Unfortunately, following discussions between the Registrar, the Director, Investment and Commercial Services, and the Deputy Commissioner, Field Operations, a decision was made not to provide these additional resources.

Finally, in late October 2008, the SIR acted against Roger. On 16 June 2008, the SIR had identified that Roger had issued an unusually high number of qualifications on the basis of RPL. It had also received a complaint about Roger's RPL process. In response, the SIR conducted a desk audit and randomly reviewed 25 student workbooks. It finalised the audit on 22 October 2008. The audit found that 18 of the student workbooks contained answers that were the same or similar. A few days later the SIR reported this matter to the Commission.

The SIR Registrar acknowledged that the SIR had experienced difficulty in obtaining evidence against RTOs such as Roger:

> *The SIR has regularly received information for some years suggesting unethical, and perhaps fraudulent conduct by approved RTOs and individual trainers. This information was typically based on rumour and could not be substantiated by the SIR through activities such as audits, unannounced visits to training sessions and enquiries with students and trainers.*

The SIR does not have an investigative capacity. It is reliant upon assistance from the NSW Police Force; however, this appears to be limited. The post-operational assessment report into Strike Force Taichow identified a need for a police presence in addition to local area command-based police within the security industry to inhibit the opportunity for organised crime. However, the recommendation for a continued police presence in the security industry was not adopted in connection with RTOs delivering security training. Ultimately, this matter was investigated by this Commission. It is important to note that the SIR could have received earlier investigative assistance from the Commission had the SIR's suspicions about the corrupt activity at Roger been reported sooner to the Commission by the NSW Commissioner of Police. The issue of the responsibility of principal officers to report reasonable suspicions of corrupt conduct to the Commission will be discussed in more detail later in this chapter.

The findings of the Taichow report were the catalyst for the formation of a component of the Firearms and Organised Crime Squad (FAOCS - formerly known as the Firearms and Regulated Industries Crime Squad)[19]. The FAOCS has, as one of its six portfolio areas, responsibility for conducting investigations into organised crime within the security industry. The SIR Registrar advised the Commission that:

> *FAOCS will consider and assess any complaint referred to it by the SIR, including any complaint relating to registered training organisations (RTOs) and will investigate those complaints that fall within its charter, (i.e. relating to organised crime).*

This would indicate that FAOCS will not investigate complaints that do not relate to organised crime, which could be a large portion of complaints. The SIR has also had occasional assistance from local police; however, this depends upon their own resources at the time. Without a dedicated and skilled investigative capacity, the SIR cannot adequately investigate suspicions of corrupt activity by RTOs and security officers.

19 Strike Force Taichow, Post Operational Assessment, Published 31 December 2007, NSW Police Force.

SIR compliance audits

Although the SIR took some steps to deal with Roger's general non-compliance with its Conditions of Approval, it did not take decisive action against Roger.

On 1 March 2006, SIR staff conducted a compliance audit of Roger Training Academy. They found a number of deficiencies in Roger's compliance framework. As a result, on 3 March 2006, the SIR suspended Roger's approval to conduct training for Certificates I, II and III in Security Operations until such time as the matter had been determined by the SIR.

In response to this suspension, Mr Moosani provided the SIR with all the required information and policy documents to address the deficiencies identified by the audit. Following various enquiries by the SIR and representations by Mr Moosani, the SIR reinstated the Police Commissioner's approval for Roger to conduct security training and assessment on 15 May 2006. The reinstatement was subject to a new condition which required Roger to submit monthly written reports for the next three months. Mr Moosani submitted these reports outlining the steps he claimed were being taken to address the issues identified in the audit. The reports included supporting documentation such as student attendance registers, dates and times of upcoming training courses and minutes of staff meetings. It seems that the SIR was satisfied with these reports as it confirmed the reinstatement of Roger's approval to conduct security training.

A complaint to the SIR by a Roger employee, dated 16 July 2006, indicated that this action by the SIR had only temporarily interrupted the corrupt activity at Roger. The complainant noted that after Roger's approval was reinstated:

> *All staff cooperated and things worked out smoothly, since all staff were aware that it could be any day that the Registry will pull up on the front doorstep and do another random audit. As weeks and months went by, and no word from the Registry, some staff went on ease and decided to choose their own way and liking of operating and delivering training.*[20]

On 17 November 2006, the SIR again required Mr Moosani to show cause why Roger Training Academy should be allowed to continue to conduct security training. The compliance deficiencies under discussion included an unsatisfactory compliance framework and unsatisfactory recording and monitoring of student participation in training sessions and training attendance. Mr Moosani explained the non-compliances by advising that there had been a change of staff at Roger and agreed that in future students would be required to sign attendance records for their actual hours of training. As a result, the SIR took no action against Roger and it was allowed to continue to operate until its approval to train was removed by the SIR on 9 March 2009 when Mr Moosani's master licence was revoked.

The SIR has authority under the *Security Industry Act 1997* to inspect RTO activity. SIR inspections are conducted by the SIR's Compliance Operations Liaison Team, which consists of four staff. The team conducts approximately six inspections per year both in response to complaints and randomly. It appears that this unit has not always been appropriately skilled or staffed.

The SIR has a number of methods at its disposal to detect non-compliance by RTOs, including:

- desk audits of their operations
- field visits to their premises whilst training is conducted by them
- industry surveillance activities
- complaints made by known or unknown parties
- intelligence reports provided by NSW Police officers
- compliance operations undertaken by other regulatory bodies.[21]

The Strategic Compliance and Enforcement Program notes that the SIR Registrar may also authorise covert operations in the event of the fraudulent use of qualifications, the falsification of attendance records or the falsification of assessment records. However, the NSW Police has advised that the SIR Registrar is not actually authorised to do so. Nevertheless, it is conceivable that a covert operation could have been mounted by NSW Police at the request of the SIR Registrar, but this step was not taken. Ultimately, all the available strategies were not applied to the SIR's inspections of Roger, despite its concerns about the integrity of Roger's operations. This may have been due to lack of resources or it could have reflected the SIR's preference to use the carrot rather than the stick. The SIR Registrar advised the Commission that:

> *While the security industry legislation provides for monetary penalties for non-compliance by RTOs with their approval conditions, the SIR's immediate focus following the granting of approvals to RTOs under clause 45 of the regulation was to foster compliance by RTOs with the new conditions of approval through education rather than enforcement.*

The SIR does not have good technological systems to support its complaint handling and investigative

20 Complaint about Roger Training Academy to the SIR, dated 16 July 2006.

21 Strategic Compliance and Enforcement Program, NSW Police Security Industry Registry, 28 February 2006.

function. Complaints are generally received by email or anonymous letters and are stored as hard copy records on files maintained for each RTO. The SIR maintains an electronic database recording the progress of each complaint; however, there is not the facility to add emails to this database. The SIR does not have a comprehensive electronic case management system which would allow it to save and search all documents related to each RTO.

An essential function of all regulation is to ensure compliance with the requirements and remove corrupt and irredeemably inadequate operators in a timely manner. While it is appropriate that a regulator should assist those it regulates to comply with the rules and to reach the highest standards, it is important that a regulator has systems in place capable of investigating complaints and identifying deliberate non-compliance, fraud and corruption. It is also important that when serious and repeated non-compliance is identified, the regulator has the will and the capacity to require compliance within reasonable timeframes or, where appropriate, to suspend or revoke the regulated agency's authority to operate. These features were not in evidence in the regulatory regime for security training.

VETAB audits

The purpose of a VETAB audit is to assess the RTO's systems and documentation in order to verify compliance with all Australian Quality Training Framework ("AQTF") Standards.

VETAB audits RTOs on application for initial registration, 12 months after initial registration and on application for renewal of registration. RTOs may also be audited on application to add to their scope of registration, following a complaint to VETAB about an RTO's training and assessment services, to monitor continuing compliance with the AQTF 2007 and as part of an industry-wide audit. VETAB contracts-out at least some of its auditing function.

The Director of VETAB, Margaret Willis, told the Commission that VETAB's audit process is primarily concerned with assisting RTOs to improve the quality of their training. The auditors do not actively look for evidence of fraudulent or corrupt activity although VETAB will report this type of behaviour to the police if it comes across it.

Ms Willis said that VETAB's audit program operates from the assumption that RTOs have the same priorities as VETAB itself, that is, to deliver quality training. Where there is non-compliance, VETAB tries to work with the RTO to improve its performance, giving it numerous chances to do so.

Ms Willis told the Commission that VETAB also assumes that training providers have integrity. As a regulator, VETAB should not have operated from such an assumption. As Adam Smith said:

> *It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own self-interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages.*[22]

RTOs are first and foremost businesses. Some will endeavour to be ethical raining providers, to comply with relevant standards and strive for a quality outcome, and some will take advantage of any opportunity, ethical or otherwise, to maximise their profits. As this investigation has shown, not all security training RTOs had integrity and not all were interested in providing quality training. Roger was one such provider. In his evidence to the Commission Mr Moosani agreed that "the running of Roger was really all about the money and he didn't care how the trainers carried out the training provided the money came into Roger".

VETAB has conducted a number of desk and site audits of Roger since the latter applied for registration in June 2005. Most of these audits revealed numerous instances of non-compliance by Roger with VETAB requirements, and necessitated further follow-up action by VETAB. VETAB's records in relation to Roger since its application for registration show a general picture of VETAB dissatisfaction with Roger. In April 2007, the Director of VETAB wrote to Mr Moosani:

> *I would like to reiterate concerns that your registered training organisation (RTO) may not be ensuring that systems are in place to plan for and provide quality training and assessment across all of RTO operations.* [23]

However, VETAB's interventions in the form of audits, meetings and letters appear to have been largely ineffective in their impact on the corrupt activity at Roger and failed to uncover even an indicator of the fraud identified in this investigation. VETAB's intervention also seems to have been ineffective in achieving the aims of the audit, that is, improving the quality of Roger's training and its compliance with AQTF 2007. Possibly due to its underlying philosophy of quality improvement rather than enforcement, VETAB simply gave Roger too many chances and accepted too many excuses, particularly given VETAB's prior knowledge of the security industry and the risks of RPL. Mr Moosani

22 Smith, Adam, *The Wealth of Nations*, 1776, book I, chap. 2, para. 2.

23 Letter from Margaret Willis, Director VETAB, to Mr Moosani, Roger Training Academy, dated 30 April 2007.

used this time to continue to abuse the opportunities offered by the upgrade process. In her evidence to the Commission, the Director of VETAB admitted that, with the benefit of hindsight, VETAB should have acted much earlier than it did.

VETAB approved the registration of Roger Training Academy as an RTO in 2005. The period of registration was from 22 June 2005 to 22 June 2010. VETAB's one year follow-up audit of Roger in November 2006 identified 47 instances of non-compliance and, in response, VETAB proposed reduction of this registration period from the remaining four years to two years with a further audit in November 2007.

Mr Moosani contested this reduction and eventually it was cancelled and the audit postponed to February 2008. Mr Moosani then used a series of excuses, including the ill-health of his mother and the resignation of his compliance officer, to further delay the audit. As a consequence, in July 2008, VETAB advised Mr Moosani that it proposed to withdraw Roger's registration for failure to comply. VETAB then allowed this unsatisfactory situation to continue until October 2008 when the site audit was finally conducted, over a year after its initially scheduled date. This allowed Mr Moosani to avoid VETAB's presence at Roger for the entire period of his corrupt activity in relation to the September 2007 licence upgrade process.

As a result of the Commission's Operation Ambrosia investigation in 2005, the Commission had made some recommendations to VETAB that are relevant to the current investigation. In December 2007, VETAB's final response to the Commission regarding the implementation of these recommendations noted that it had:

- *… significantly increased its focus on recognition of prior learning (RPL) as a risk factor in the registration and audit of RTOs. This includes identifying RPL in the electronic risk profiling of registered providers in VETAB's information system.*
- *All audits undertaken for initial, post-initial and re-registration require recognition of prior learning policies, procedures and records to be assessed.*

These statements, made at the time the licence upgrade process began, appear to indicate an increased focus on RPL, particularly in VETAB's audits. However, there is little point in improving the audit focus on RPL if the audits are not conducted in a timely manner, as happened with Roger. It cannot be said that VETAB has adequately implemented the Commission's recommendation if the required audits are not conducted or are so tardy as to be totally ineffective.

Given VETAB's assurances to the Commission of its improved audit practices and greater audit focus in relation to RPL, it could be expected that a more timely audit of the RPL practices at Roger during the period of the upgrade process should have identified some anomalies. As it was, VETAB submitted to Mr Moosani's delaying tactics and the audit, when it finally took place, was too late. With their recent experience of RTO corruption and assurances to the Commission about improved practices, it is difficult to understand how VETAB could have allowed this to occur.

As well as exposing corrupt use of RPL, this investigation has produced evidence of RPL processes that were totally without merit as forms of assessment. This resulted either from the trainers' lack of understanding of the process or from taking extreme shortcuts that approached negligence.

There were a number of examples of security trainers interviewed by the Commission expressing a poor understanding of the RPL process. This is despite the existence of the RPL guidelines that had been developed to assist trainers. For example, in his evidence to the Commission Shane Camilleri said that he had been under the impression that a security officer could be granted an upgraded qualification by RPL if he simply supplied evidence of employment as a security officer.

An example of a severely abbreviated process was that conducted by Stuart Brooks of STAT. He assessed 22 of the staff of H&H Security without meeting them. Their manager, Mary Grech, acted as the middleman between Mr Brooks and her staff. She assembled the required documents, including misleading references, fictional incident reports and a video that supposedly provided evidence of dog-handling skill. The references were all obviously the same with the names changed and the dog-handling video was described by Margaret Willis, Director of VETAB, as a "mockery". Despite this, Mr Brooks considered the evidence to be sufficient to grant these security officers their qualifications. However, Ms Willis stated that STAT's RPL methodology was "not in accordance with the RPL handbooks that SIR have mandated and it is not a valid RPL process even if those guides had not been mandated".

The evidence of Mr Moosani to the Commission suggests that there was a mutual arrangement between Roger staff and Portfolio Training Academy staff to issue their new qualifications under RPL without any training, assessment or evidentiary documentation.

The Director of VETAB has indicated that VETAB has identified RTO non-compliance "probably on a grand scale" across the security industry. It is of concern that Ms Willis did not take action or report this to the Commission, the Department of Education and Training, the Board of VETAB or any other relevant body.

The Australian Quality Training Framework requires RTOs to provide quality training and assessment across all their operations. It is VETAB's role to ensure they do so. These practices described above do not reflect the quality assessment required by the AQTF. Ms Willis told the Commission that because RPL is viewed as an increased risk, "RPL processes and related documentation is [*sic*] always audited". However, this investigation has shown that VETAB's audit processes failed to identify and address these poor quality RPL assessment processes. As a result, security officers assessed on the basis of RPL were issued qualifications, and consequently security licences, they may not have merited. VETAB may question its responsibility for detecting corrupt conduct by RTOs, but it cannot deny its responsibility for ensuring that RTOs provide quality training and assessment.

Building Service Contractors Association of Australia's audits

As a master licensee, Mr Moosani was required to be a member of an ASIA and to submit to compliance audits. He selected the Building Service Contractors Association of Australia ("BSCAA") and joined on 1 March 2005.

ASIAs are required to conduct a compliance assessment of each of their master licensee members at least once during the period of a five-year master licence. There is also provision for additional inspections in relation to complaints, non-delivery of products or services, adverse court decisions or when master licensees transfer from another ASIA but do not have a current certificate of compliance from that ASIA. The purpose of assessment is to determine the level of compliance of master licensees with the Code of Practice and relevant legislation.

Despite reminder letters in August 2006 and August 2007, Mr Moosani failed to make contact and did not provide BSCAA with the following required documents:

- copy of current master licence
- signed Part 3 Acknowledgement of the Code of Practice
- self completed Compliance Inspection Form
- evidence of current insurance cover for public liability
- evidence of current insurance cover for workers compensation.

Although Mr Moosani had been blatantly uncooperative and non-compliant, BSCAA did not cancel Mr Moosani's membership until 6 May 2009; over four years after he joined. It is not known what, if any, impact a BSCAA audit would have had on the corrupt activity at Roger Training Academy even if it had taken place. However, the failure of the BSCAA audit process represented one more gaping hole in the regulatory framework; one more inconsistency between the measures that were supposedly in place to ensure compliance and those that actually were in place.

Failure to report to the Commission

Both the SIR and VETAB reported that they were not aware that reasonable suspicions of corrupt conduct by RTOs undertaking occupational training for security licensing should have been reported by the principal officers of the NSW Police Force and the Department of Education and Training to this Commission under section 11 of the *Independent Commission Against Corruption Act 1988*. As a result, this matter was not reported to the Commission at the first suspicions of corrupt conduct. Similarly, the NSW Police Force did not report to the Commission the conclusion of Strike Force Taichow that "it was apparent that the POIs [persons of interest] were operating ... corruptly".[24]

The Security Industry Registry

The SIR Registrar reported this matter to this Commission on 30 October 2008. However, the SIR was aware that corrupt conduct may have been occurring at Roger as early as 2006. The 2007 Intelligence Briefing Report on Roger Training Academy discussed above refers to evidence that would have constituted a reasonable suspicion of corrupt conduct. Accordingly, the NSW Commissioner of Police should have reported the matter to this Commission earlier.

VETAB

VETAB was aware that corrupt conduct by public officials must be reported to this Commission, having just finished implementing recommendations from Operation Ambrosia. Ms Willis was Director of VETAB at the time of the Commission's Operation Ambrosia investigation in 2005. Among other findings, that investigation found that the principal of an RTO had behaved corruptly by fraudulently issuing qualifications to students. At the time of the investigation Ms Willis was interviewed about the activities of this RTO and provided the Commission with a statement in this regard.

Despite this, Ms Willis told the Commission during the public inquiry held as part of this investigation that she was unaware that corrupt conduct by RTOs also came under the Commission's jurisdiction and should have been reported. In her evidence she stated that "if there was a claim that one of our auditors was corrupt we would report that to ICAC but if it's the RTOs that's corrupt we would report that to the police".

The SIR made VETAB aware of its concerns in relation

24 Strike Force Taichow, Post Operational Assessment Report, 31 December 2007.

to corrupt assessment by RTOs by at least early 2008. It is difficult to accept that Ms Willis was unaware that the SIR's suspicions of corrupt assessment practices by an RTO constituted information that should be reported to this Commission.

Responsible Service of Alcohol, Responsible Conduct of Gaming and First Aid training

Persons associated with Roger Training Academy have also engaged in corrupt conduct by fraudulently issuing First Aid certificates and have improperly issued Responsible Service of Alcohol ("RSA") and Responsible Conduct of Gaming ("RCG") certificates. Both RSA and RCG course approvals are subject to standard conditions imposed by the Office of Liquor, Gaming and Racing ("the OLGR"), while WorkCover NSW ("WorkCover") (is the responsible authority in relation to First Aid certificates. Neither of these agencies identified any issue of concern in relation to the certificates issued by Roger.

Roger Training Academy was not licensed to issue these certificates and so Mr Moosani entered into agreements with Unique College of Technology (First Aid) and Amstar Learning (RSA/RCG) and issued the certificates in their names. Mr Merchant admitted to the Commission that he had issued RSA, RCG and First Aid certificates "on the spot" to persons he knew had no training in any of those areas in return for between $100 and $150.

First Aid

WorkCover NSW is the authority responsible for administering and enforcing compliance with occupational health and safety and injury management legislation.

In relation to security licences, all provisional and Class 1 subclasses (except P1E & 1E) must hold either a current First Aid certificate from a WorkCover approved course or a current Statement of Attainment for the relevant national competency unit. From 30 June 2009, all WorkCover course approvals expired and the only courses recognised as approved by WorkCover for the purposes of first aid training security licensing are the selected national units of competency. Certificates issued prior to 30 June 2009 will continue to be recognised until their expiry date.

Each first aid course is approved for three years from the date of issue of the relevant certificate/statement of attainment. To maintain currency, training must be re-certified after the successful completion of a revision course. The certification must take place prior to the expiry of the three-year period; otherwise a complete course must be undertaken.

WorkCover advised the Commission that it identifies and prevents unlawful, corrupt or improper practices in relation to first aid training courses by:

- ensuring that the first aid course approval process is conducted rigorously
- imposing a range of conditions on first aid courses
- requiring courses to be delivered ethically and professionally, and
- responding to complaints.

However, these measures did not prove effective in the detection of the corruption seen in this investigation. In his evidence to the Commission Mr Moosani admitted that Roger Training Academy had been issuing fraudulent first aid certificates for several years and WorkCover had not detected this activity.

WorkCover also failed to detect that Unique College of Technology had not complied with the WorkCover requirement to provide annual returns in relation to the first aid training it conducted or sub-contracted. WorkCover acknowledged that it does not appear to have followed up Unique's failure in this regard.

The review of the conduct of first aid courses is not a priority and has been less so in recent years. The period from 28 September 2006 to 30 June 2009 was a transition period for WorkCover, with the phasing out of WorkCover approved first aid training courses and their replacement by the national unit of competency. As a result, over this period, WorkCover focused less on WorkCover approved training and RTOs such as Unique, and more on ensuring a smooth transition to the new arrangement.

WorkCover also does appear to have the resources to properly review first aid courses. It advised the Commission that it has "limited review resources and first aid training, while important, has tended to have a lower priority in terms of review unless there is complaint". WorkCover concentrates its review resources in areas of licensing it considers to be of "high risk", such as construction induction training. WorkCover considers these areas as high risk in the sense that they are "essential to undertake certain occupations and because failure to obtain proper training in these areas can lead to a high risk of injury or illness".

RSA / RCG training

The Casino Liquor & Gaming Control Authority ("the CLGCA") is responsible for performing casino, liquor and gaming machine regulatory and other decision-making functions on behalf of government. The OLGR, a division of the NSW Department of the Arts, Sport and Recreation, provides administrative support and advice to the CLGCA in administering the statutory RSA and RCG training schemes.

The purpose of RSA training is to improve serving practices in licensed venues and enable management and staff to identify the responsible serving provisions of the liquor laws and the strategies that can be adopted to enhance serving practices. In 2005 it became mandatory for security officers with crowd control duties in licensed venues to complete RSA training.

The purpose of RCG training is to ensure managers and staff of hotels and registered clubs can identify people who may have a gambling problem and can fulfil their obligations in operating gaming machines responsibly. RCG certificates are required by security officers working at licensed gaming venues such as registered clubs, casinos and hotels.

The OLGR advised the Commission that it conducts in-class assessments for RSA and RCG training to determine compliance with the requirements and assess the competency of the trainer. Where an assessment finds possible breaches of conditions and/or finds a trainer to be not competent, the matter can be referred to the CLGCA. Where a trainer is found to be not competent, the CLGCA can make a finding that the person is no longer accepted and be removed from further course delivery.

These measures were not effective in identifying that, for several years, Roger Training Academy had been issuing RSA and RCG certificates and had never conducted the required training.

3. The Commission's recommendations

The security licence upgrade process has failed in its objective to weed out incompetent and undesirable RTOs and security officers. The evidence of corrupt conduct and poor quality RPL assessments uncovered by this investigation raises severe doubts about the legitimacy of all current security licences in NSW and the integrity and competence of all security training providers. There have also been large numbers of First Aid, RSA and RCG certificates issued by Roger Training Academy in the absence of any training.

The current regulatory system is fragmented and confused, without any real accountability for the integrity and ethical conduct of security training and certification. In an industry with a long history of crime and corruption, too much control over the process has been surrendered to private sector RTOs. In this context, it is difficult to be confident that the present regulatory regime has any processes in place capable of conclusively identifying which current security qualifications are legitimate, which RTOs are corrupt, incompetent or lazy, and which are ethical and legitimate security training providers. The evidence suggests that, even if the regulators could wipe the current slate clean by identifying and eliminating all incompetent and undesirable security licensees and RTOs, it would only be a matter of time before similar problems emerged unless the fundamental regulatory problems are addressed. To assist in this regard, the Commission makes the following recommendations.

Strengthening the regulatory regime

The current system of regulation is fragmented, uncoordinated and confused. As a result, no agency has been ultimately accountable for ensuring that security training is conducted with integrity. Under delegation from the NSW Commissioner of Police, the SIR should assume this role to enable it to ensure that security licences are only issued to persons who have attained the required competencies. This means that the SIR must take responsibility for corruption prevention, risk management and fraud and corruption detection in relation to security training.

The SIR should not be reliant on staff and bodies outside its control, such as other areas of the NSW Police Force, VETAB or the ASIAs, for assistance or information needed to fulfil its responsibilities. This has proven problematic in the past. The SIR should have adequate and appropriately resourced investigation, inspection and review functions.

Recommendation 1

In relation to security training, assessment and certification, the NSW Commissioner of Police should assume ultimate responsibility for all integrity-related functions, including:

a. corruption prevention

b. corruption risk management

c. fraud and corruption investigation and detection.

Recommendation 2

The compliance, inspection and data review processes of the Security Industry Registry ("the SIR") should be expanded and improved to give the SIR the capacity to detect fraudulent or inadequate training practices by registered training organisations ("RTOs").

Recommendation 3

The SIR should be given sufficient, dedicated staffing and other resources to implement Recommendations 1 and 2 without reliance on staff from other sections of the NSW Police Force, the Vocational Education and Training Accreditation Board ("VETAB"), the approved security industry associations ("ASIAs") or any other organisation.

Reducing the control of RTOs

In order to assist the SIR in its corruption prevention role, RTOs should not have end-to-end control of the security training and certification process. SIR should take steps to reduce this control by removing key aspects of the process, such as literacy and numeracy testing, from the control of RTOs. It should also independently test and assess applicants prior to granting a security licence, whether the security qualification has been granted following training or via RPL assessment.

Recommendation 4

In relation to literacy and numeracy testing for security licence applicants:

a. it should not be conducted by RTOs providing security training
b. the SIR should facilitate the development of a standard literacy and numeracy test
c. this test should be administered by an approved government provider selected by the SIR.

Recommendation 5

The SIR should independently test the knowledge of applicants for security licences prior to the issue of the licence. This testing could include:

a. random computer-based knowledge testing such as is used by the Roads and Traffic Authority to test driver knowledge, and
b. scenario-based interviews conducted by SIR staff.

Determining the merit of current security licensees and RTOs

It is not known exactly how many of the over 11,000 security qualifications issued by Roger were fraudulent. However, the Commission's review of 1,200 workbooks completed by Roger students found that 80% contained indications that a version of the answers provided by Roger had been used. Consequently, all qualifications issued by Roger should be reviewed. During the public enquiry held as part of this investigation, the Commission also heard a considerable amount of evidence indicating that other RTOs were conducting RPL processes that were so abridged or inept as to have been meaningless as a form of assessment. The full scope of such practices is unknown and this must cast a measure of doubt on all NSW security licences issued during the upgrade process.

The legitimacy of NSW security licences should be addressed as a priority. However, given the uncertainty about the quality and competence of security training providers generally, it is considered that these RTOs should have no part in the licence review process. All RTOs currently approved to conduct security training should also be reviewed to determine whether they merit continued approval.

Recommendation 6

The SIR should take steps to determine the validity of all security qualifications granted during the upgrade process. RTOs currently approved to provide security training should not be involved in this assessment process. Some methods that could be considered in this regard include the measures described in Recommendations 4 and 5 above.

Recommendation 7

The SIR should comprehensively review all RTOs currently approved to deliver security training to determine:

a. their level of competence and compliance during the licence upgrade process
b. whether their security trainers meet the competency levels required by the Certificate IV in Training and Assessment and the Certificate IV in Security and Risk Management
c. whether the RTO merits continued approval to conduct security training.

Corruption risk management

The SIR should conduct a comprehensive assessment of the corruption risks in security training and the strategies that should be in place to effectively manage them. Risk management is an accepted part of good governance. The most common risk management framework used in Australia is based on that developed by Standards Australia (AS/NZS 4360:2004). The framework relies on a comprehensive process to identify and assess risks and implement sound strategies to manage these risks. This process can also be applied to the management of corruption risks. The key difference between corruption risks and other risks is that public sector agencies cannot share or transfer corruption risks as they retain ultimate responsibility for functions that are outsourced or shared with a private organisation.

Recommendation 8

The SIR should:

a. conduct a comprehensive corruption risk assessment of the corruption risks present in security training and licensing. This risk assessment should include but not be limited to:

i. analysis of the risks associated with outsourcing security training to private training providers

ii. analysis of the risks associated with any new procedures the SIR may introduce to test security licence applicants or review RTOs

b. develop a corruption risk management plan describing the corruption risks identified and the strategies the SIR will adopt to manage each of these risks.

VETAB

It is recognised that VETAB has responsibility for ensuring "the quality and integrity of vocational education and training" in NSW.[25] However, the Commission considers that one regulator, the SIR, should have primary responsibility for ensuring integrity in relation to security training. This does not impinge on VETAB's responsibilities in relation to ensuring quality security training in compliance with the AQTF standards.

This investigation has shown that to effectively meet these responsibilities in security training and other areas of occupational training, VETAB will need to improve its processes. VETAB should also provide the SIR with any information it receives that relates to the integrity of security training.

Recommendation 9

In relation to VETAB's audit and compliance practices:

a. VETAB should improve its audit and monitoring of RTOs to ensure early detection of training, assessment or recognition of prior learning ("RPL") not conducted in accordance with the Australian Quality Training Framework ("AQTF") standards

b. where VETAB identifies training, assessment or RPL not conducted in accordance with the AQTF standards, it should take prompt and effective action to gain compliance within a specified timeframe

c. where compliance does not occur within the specified timeframe without good reason, VETAB should take immediate disciplinary action against the RTO.

25 Section 3(b), *Vocational Education and Training Act 2005*.

Recommendation 10

In future, VETAB should provide the SIR with:

a. a copy of all VETAB audit reports concerning RTOs that provide security training

b. any information received from complaints or any other source that relates to the integrity of security training.

Reporting to the Commission under section 11 of the ICAC Act

The NSW Police Force, the SIR, the Department of Education and Training and VETAB should understand the jurisdiction of the Commission as it relates to their functions and responsibilities. They should clearly understand matters that must be reported to the Commission under section 11 of the ICAC Act and they should have internal reporting procedures in place to ensure that reporting takes place in a timely manner.

Recommendation 11

The NSW Police Force and the Department of Education and Training should make all managers and senior officers aware of :

a. the definition of corrupt conduct under the *Independent Commission Against Corruption Act 1988*

b. the jurisdiction of the Commission, and

c. the requirement to report suspected corrupt conduct under section 11 of the *Independent Commission Against Corruption Act 1988*.

Recommendation 12

The NSW Police Force and the Department of Education and Training should have internal reporting mechanisms in place that ensure that principal officers are made aware of and report matters within the jurisdiction of the Commission under section 11 of the *Independent Commission Against Corruption Act 1988* at the earliest possible time.

Responsible Service of Alcohol, Responsible Conduct of Gaming and First Aid training certificates

This investigation has ascertained that students were able to obtain RSA, RCG and First Aid certificates through Roger Training Academy without undertaking any training. Mr Moosani has given evidence that all the RSA and RCG certificates issued by Roger Training Academy, through

Amstar Learning, since 2006 were issued in this way. Given the overall extent of the corrupt activity at Roger, it is likely that the number of fraudulent First Aid certificates it issued was also significant.

Recommendation 13

The Office of Liquor, Gaming and Racing ("OLGR") should review the validity of all Responsible Service of Alcohol ("RSA") and Responsible Conduct of Gaming ("RCG") certificates and statements of attainment issued through Roger Training Academy since 2006.

Recommendation 14

The OLGR should reduce the likelihood of fraud in the issue of RSA and RCG certificates by:

a. conducting a comprehensive corruption risk assessment of the corruption risks present in RSA and RCG training and licensing. This risk assessment should include but not be limited to:
    i. analysis of the risks associated with training by private training providers
    ii. analysis of the risks associated with any new procedures the OLGR may introduce to review RTOs
b. develop a corruption risk management plan describing the corruption risks identified and the strategies the OLGR will adopt to manage each of these risks.

There is a Statement of Agreement between WorkCover and VETAB setting out the roles and responsibilities of each in relation to the training and assessment of certificate and licence applicants. WorkCover has advised that, under this Agreement, VETAB would be better placed than WorkCover to review the validity of the First Aid certificates issued by Roger.

Recommendation 15

WorkCover NSW and VETAB should liaise in order to advise the Commission of the following:

a. which agency will take responsibility for reviewing the validity of all First Aid certificates issued through Roger Training Academy since 2006
b. how this review will be conducted
c. that the responsible agency will undertake to notify the SIR Registrar of any First Aid certificates found to be invalid.

Recommendation 16

WorkCover NSW should reduce the likelihood of fraud in the issue of First Aid certificates by:

a. conducting a comprehensive corruption risk assessment of the corruption risks present in First Aid training. This risk assessment should include but not be limited to:
    i. analysis of the risks associated with training by private training providers
    ii. analysis of the risks associated with any new procedures WorkCover may introduce to review RTOs
b. develop a corruption risk management plan describing the corruption risks identified and the strategies WorkCover will adopt to manage each of these risks.

In conclusion

The corruption uncovered by this investigation has serious implications for the security industry across NSW. The Commission would be unrealistic if it were not concerned that the corruption at Roger and the poor practices of STAT, Nationwide and Portfolio could be symptoms of a wider problem in the industry. Crime and corruption have been associated with the security industry for decades and unless government finally takes corrective action that is well-considered and well-resourced, such behaviour will continue. In view of this, the Commission has referred a copy of this investigation report to the Minister for Police.

The implications for the regulation of occupational training in general are similarly far-reaching. The inadequate VETAB audit and review practices identified in this investigation and in the previous Operation Ambrosia investigation apply to all occupational training in NSW. These practices, as they stand, do not ensure that certification is based on quality training, or indeed any training. VETAB must accept that the regulation of private training providers requires a less trusting, more enquiring and more decisive approach.

The lessons of this investigation about the importance of clear accountabilities, adequate capacity, understanding the regulatory environment, preventing end-to-end control by private suppliers, and sound change and corruption risk management should also be useful to any NSW government agency with regulatory functions.

Appendix 1: The role of the Commission

The ICAC Act is concerned with the honest and impartial exercise of official powers and functions in, and in connection with, the public sector of New South Wales, and the protection of information or material acquired in the course of performing official functions. It provides mechanisms which are designed to expose and prevent the dishonest or partial exercise of such official powers and functions and the misuse of information or material. In furtherance of the objectives of the ICAC Act, the Commission may investigate allegations or complaints of corrupt conduct, or conduct liable to encourage or cause the occurrence of corrupt conduct. It may then report on the investigation and, when appropriate, make recommendations as to any action which the Commission believes should be taken or considered.

The Commission can also investigate the conduct of persons who are not public officials but whose conduct adversely affects or could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority. The Commission may make findings of fact and form opinions based on those facts as to whether any particular person, even though not a public official, has engaged in corrupt conduct.

The ICAC Act applies to public authorities and public officials as defined in section 3 of the ICAC Act.

The Commission was created in response to community and Parliamentary concerns about corruption which had been revealed in, inter alia, various parts of the public service, causing a consequent downturn in community confidence in the integrity of that service. It is recognised that corruption in the public service not only undermines confidence in the bureaucracy but also has a detrimental effect on the confidence of the community in the processes of democratic government, at least at the level of government in which that corruption occurs. It is also recognised that corruption commonly indicates and promotes inefficiency, produces waste and could lead to loss of revenue.

The role of the Commission is to act as an agent for changing the situation which has been revealed. Its work involves identifying and bringing to attention conduct which is corrupt. Having done so, or better still in the course of so doing, the Commission can prompt the relevant public authority to recognise the need for reform or change, and then assist that public authority (and others with similar vulnerabilities) to bring about the necessary changes or reforms in procedures and systems, and, importantly, promote an ethical culture, an ethos of probity.

The principal functions of the Commission, as specified in section 13 of the ICAC Act, include investigating any circumstances which in the Commission's opinion imply that corrupt conduct, or conduct liable to allow or encourage corrupt conduct, or conduct connected with corrupt conduct, may have occurred, and co-operating with public authorities and public officials in reviewing practices and procedures to reduce the likelihood of the occurrence of corrupt conduct.

The Commission may form and express an opinion as to whether consideration should or should not be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of a person for a specified criminal offence. It may also state whether it is of the opinion that consideration should be given to the taking of action against a person for a specified disciplinary offence or the taking of action against a public official on specified grounds with a view to dismissing, dispensing with the services of, or otherwise terminating the services of the public official.

Appendix 2: Corrupt conduct defined and the relevant standard of proof

Corrupt conduct is defined in section 7 of the ICAC Act as any conduct which falls within the description of corrupt conduct in either or both sections 8(1) or 8(2) and which is not excluded by section 9 of the ICAC Act. An examination of conduct to determine whether or not it is corrupt thus involves a consideration of two separate sections of the ICAC Act.

The first (section 8) defines the general nature of corrupt conduct. Section 8(1) provides that corrupt conduct is:

a. *any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or*

b. *any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or*

c. *any conduct of a public official or former public official that constitutes or involves a breach of public trust, or*

d. *any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.*

Section 8(2) specifies conduct, including the conduct of any person (whether or not a public official), that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority, and which, in addition, could involve a number of specific offences which are set out in that subsection.

Section 9(1) provides that, despite section 8, conduct does not amount to corrupt conduct unless it could constitute or involve:

a. *a criminal offence, or*

b. *a disciplinary offence, or*

c. *reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or*

d. *in the case of conduct of a Minister of the Crown or a Member of a House of Parliament – a substantial breach of an applicable code of conduct.*

Three steps are involved in determining whether or not corrupt conduct has occurred in a particular matter. The first step is to make findings of relevant facts. The second is to determine whether the conduct, which has been found as a matter of fact, comes within the terms of sections 8(1) or 8(2) of the ICAC Act. The third and final step is to determine whether the conduct also satisfies the requirements of section 9 of the ICAC Act.

Section 13(3A) of the ICAC Act provides that the Commission may make a finding that a person has engaged or is engaged in corrupt conduct of a kind described in paragraphs (a), (b), (c), or (d) of section 9(1) only if satisfied that a person has engaged or is engaging in conduct that constitutes or involves an offence or thing of the kind described in that paragraph.

A finding of corrupt conduct against an individual is a serious matter. It may affect the individual personally, professionally or in employment, as well as in family and social relationships. In addition, there are limited instances where judicial review will be available. These are generally limited to grounds for prerogative relief based upon jurisdictional error, denial of procedural fairness, failing to take into account a relevant consideration or taking into account an irrelevant consideration and acting in breach of the ordinary principles governing the exercise of discretion. This situation highlights the need to exercise care in making findings of corrupt conduct.

In Australia there are only two standards of proof: one relating to criminal matters, the other to civil matters. Commission investigations, including hearings, are not criminal in their nature. Hearings are neither trials nor committals. Rather, the Commission is similar in standing to a Royal Commission and its investigations and hearings have most of the characteristics associated with a Royal Commission. The standard of proof in Royal Commissions is the civil standard, that is, on the balance of probabilities. This requires only reasonable satisfaction as opposed to satisfaction beyond reasonable doubt, as is required in criminal matters. The civil standard is the standard which has been applied consistently in the Commission. However, because of the seriousness of the findings which may be made, it is important to bear in mind what was said by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362:

> *… reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or fact to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters 'reasonable satisfaction' should not be produced by inexact proofs, indefinite testimony, or indirect inferences.*

This formulation is, as the High Court pointed out in *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170 at 171, to be understood:

> *… as merely reflecting a conventional perception that members of our society do not ordinarily engage in fraudulent or criminal conduct and a judicial approach that a court should not lightly make a finding that, on the balance of probabilities, a party to civil litigation has been guilty of such conduct.*

See also *Rejfek v McElroy* (1965) 112 CLR 517, the *Report of the Royal Commission of inquiry into matters in relation to electoral redistribution, Queensland, 1977* (McGregor J) and the *Report of the Royal Commission into An Attempt to Bribe a Member of the House of Assembly, and Other Matters* (Hon W Carter QC, Tasmania, 1991).

As indicated above, the first step towards making a finding of corrupt conduct is to make a finding of fact. Findings of fact and determinations set out in this report have been made applying the principles detailed in this Appendix.

I·C·A·C

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