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INDEPENDENT COMMISSION AGAINST CORRUPTION

STEPHEN RUSHTON SC
COMMISSIONER

PUBLIC HEARING

OPERATION GERDA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 14 FEBRUARY, 2019

AT 10.00AM

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

THE COMMISSIONER: Mr English.

MR ENGLISH: Thank you, Commissioner. If Mr Lu can come back to the witness box, please.

THE COMMISSIONER: Come forward, Mr Lu.

THE COMMISSIONER: Go ahead.

MR ENGLISH: Thank you, Commissioner. Mr Lu, when you became the person responsible for rostering for SIG in August 2016, were you told by anyone to commence the practice of including ghost names on to the site time sheets?---Yes, yes.

10

And who was the person that told you to start that practice.---It was, that practice, before they were doing it, so Tommy and all, Lynn and all that told me to do, just put it, put it on.

So to keep implementing the practice that had been going in the past, is that right?---Yeah.

And did you receive a similar instruction from anyone within the team at the university?---The team, the team leaders?

20

Yes. Anyone from within the SNP Group at the university. Did anyone encourage you to keep up that practice as well?---Well, Emir's told me as well to do it.

Now, you gave some evidence yesterday about the time sheets and that they'd be scanned to SNP and that was linked to your Sydney Uni email account?---Yeah, yeah.

30

After you had scanned the time sheets and emailed them to SNP, what would you do with the physical time sheet?---In the start, in the start we just left it in the control room, then after we put it in the drawer in the, Emir's drawer in his desk.

I asked you some questions yesterday about whether any guards, to your knowledge, performed bus run duties whilst fatigued. Do you recall that? ---Yep, yep.

Yes. And at transcript page 239 you said it didn't happen.---No. Not from my memory, no.

40

And one of the reasons you gave was because - - -?---Licence.

Yes, the licence. That's right. I wonder if Exhibit 36, page 286 can be brought on the screen, please. If we can perhaps start at page 228. You can see that just shows, I think it's Mr - - -?---Fawad.

- - - Fawad and above that, is that who you spoke of yesterday?---Domenic.

Mr Giardini?---Yeah, Domenic.

Here we can see the email now, from 22 March, 2018, from Domenic. Do you see that?---Oh, yeah. That's the, what do you call it, that's the Camden one.

Yes. So he says, that's Domenic, he addresses it to Tommy and Lynn and SIG Rosters is also included in the address that the email's been sent to. Do you see?---Yep, yep.

10

And speaking about another case where the time sheets indicate that a particular worker has worked eight consecutive shifts. Do you see that? ---Yeah.

And it talks about it being a serious breach of fatigue.---Yeah.

And then if we can just go up a little bit, please. And then I think you respond from roster@sinternationalgroup, is that right?---Yep.

20 You say, "Hi Dom." You gave some evidence yesterday that you knew Mr, is it Giardini for quite a while?---Well, I know him but I don't deal with him. I know this, like, yeah, we worked, like, at Sydney Uni for, if, a, a month or two.

And when you referred to him, you'd refer to him as Dom rather than Domenic, would you?---Yeah, I would just call him Dom.

30 If you look at the third paragraph of your email, so, "Had a brief chat to the guards due to the timing. On the 14th we had arranged another guard to drive the bus but he had pulled out and asked Ihab if he could cover the five and a half hour bus run. Nevertheless, even a senior guard can make mistakes. They had arranged this amongst themselves. We will issue a first and final warning for their action." Isn't this a case whereby there was a bus run that was performed in circumstances where the person who did the shift was fatigued?---Yeah, but Camden was, it's not, I don't, I don't deal with it. I just want to, that one, what I reply for the email, I had a talk with Tommy and Lynn and that, so they're going to have to respond so I just wrote one for them. I don't, I don't put the rosters or whoever's sick or who's doing what in Camden or Cumberland.

40

So in relation to the Camden campus, do you know who was responsible for that roster?---The, the, the, the SIG office.

So the office where Lynn worked?---Yeah. The reason why I did this email because they, apparently they, they couldn't come up, like, a, a way to write, how to respond to them. So, so I just came up, I just wrote something and responded.

And then if we can go to the previous page, please. You can see at the bottom of the page, Mr Sirour seems to have said, "Thanks, Frank," to you. ---Yeah, because, because he doesn't know how to respond, Lynn doesn't know how to, like, they don't know how to put it in writing. So apparently I'm the only one that knows how to write, so he got me to write something for him. So I, I forwarded it to him, then if he's, he says if that, that looks all right then, that's it, we forward it.

10 And did anyone, after you sent that email, if we just go back to the previous page, did anyone, at around that time, from SNP, and I'm not referring to Mr Balicevac or Mr McCreddie, but did anyone from SNP query with you why you were sending an email from the email address @sinternationalgroup.com?---I think with the, the, I remember this one because it was near, like, near the end and I think Fawad or someone responded what's my role or something, who's this guy, who's Frank, something along that line, but no one from the, like, SNP or the university said anything.

20 So you're saying an email should exist from Fawad, to your memory, querying why you were responding from that email address?---Yeah. They, they sent it to Lynn then, then, then Tommy called me and he goes, oh, they asking who's Frank, and Tommy said don't answer it, Lynn will answer it.

Can we go to an email that's found on page 305, please, of Exhibit 36. Perhaps if we start at page 307 of the pervious page, I'm sorry, 306. You can see here there's another email from Mr Giardini. Again Roster is included as a recipient, roster@sinternationalgroup.---Yep.

30 Again it's addressed or made out to Tommy and Lynn and there's another issue raised about a breach of fatigue.---Yeah.

And then you can just see, "Kind regards, Frank," at the top of the page. ---Yeah.

And then we see here, "Hi, Dom," so you seem to have responded to that email.---Yeah. It's, it was the same case, he, he asked me to respond for it.

Well was this, oh, this is in relation to - - -?---Marisol.

40 To Camden, is it, this time?---Camden, yeah.

And then you can see Fawad writes back and says, "Hi, Frank. Thanks for your email," and then addresses another piece of correspondence to Tommy and Scott. Do you see that?---Yep, yep.

And that's where there's a query for your role to be explained. Do you see that?---Yeah, yeah.

And is this what you're referring to, where Lynn then wrote back, "Hi Fawad. Frank is our casual rostering clerk. He arranges rosters for us." So is that what you were referring to just a moment ago before this email was brought on the screen?---Yep.

And tell me this, other than that piece of correspondence there, was it ever raised directly with you by anyone from SNP, and I don't mean Mr Balicevac or Mr McCreadie, firstly whether it was you who were using that email address, roster@sinternationalgroup.com?---Yeah, I did. Yeah.

10

So someone raised it with you?---I did use the email address.

No, did someone raise it with you, whether it was you who was using that email address, you Frank Lu, the SNP employee?---I don't, I can't even remember, I don't think so.

So to your understanding, this is the only query that was raised in relation to your use of that email address by someone back at SNP, is that right? ---Yeah.

20

I just want to ask you about your relationship with Mr Sirour, Tommy. ---Yep.

Was it only a professional relationship you had with him?---I only see him at, at the uni or he will come down and, to the uni, just in the uni and then we'd go and have a coffee and that's it.

So sometimes you'd see him on campus?---Yeah. I didn't see him afterwards.

30

And would you speak to him on the phone at times?---Yeah.

What, he'd ring you up on the phone that he provided to you when you took over the rostering responsibilities for SIG?---Yep.

How frequently was that?---Depends on if, if, if there are, like, things happening like that, he will call me, you know, like, a few, four, five, six times that day and just if there's nothing, then he won't call me much.

40

Would he ring you up on occasion to express concerns about the particular guards that were claiming shifts using ghost details?---Yeah, he would.

I might just have a call played, Commissioner, and I'll ask that it be tendered in advance of it being played, and then played, and then what I'd seek to do is, after it's been played, we can have the transcript brought up onto the screen and questions can be asked of the witness.

THE COMMISSIONER: So you want the audio and the transcript to be tendered separately? I think that's how it - - -

MR ENGLISH: Whether they be tendered as one or separate, I'm in the Commission's hands.

THE COMMISSIONER: But you'd rather do that in advance?

10 MR ENGLISH: I think so. If I can read on to the record, it's session number 06319 from 20 February, 2018 at 15.51.07, and it's an eight page transcript of a conversation purported to be between Mr Lu and Mr Sirour. I think tendering separately is the thing, at least that I've been instructed to do, that might be practised down here, Commissioner.

THE COMMISSIONER: I'm not sure. I should know but I don't. Separately.

MR ENGLISH: Separately I'm told.

20 THE COMMISSIONER: The audio of that particular telephone call will be marked Exhibit 52.

#EXH-52 – AUDIO SESSION 06319

THE COMMISSIONER: And the transcript of that telephone call will be marked Exhibit 53.

30

#EXH-53 – TRANSCRIPT SESSION 06319

MR ENGLISH: If that can be played, then, and if you can pay attention to this, Mr Lu. There seems to be a technical difficulty.

THE COMMISSIONER: Do you want me to just adjourn briefly so it can be fixed?

40 MR ENGLISH: Yes. A short adjournment if we could, please.

THE COMMISSIONER: All right. I apologise.

MR ENGLISH: And if it pleases the Commissioner, we can hand out the transcript to the legal representatives.

THE COMMISSIONER: Certainly, no, that's a good idea.

MR ENGLISH: It's just been tendered, which is Exhibit 53.

THE COMMISSIONER: All right. We'll adjourn for five or 10 minutes.

SHORT ADJOURNMENT

[10.26am]

10 MR ENGLISH: It seems our problem's been fixed, Commissioner.

THE COMMISSIONER: Thank you. Perhaps if the call can be played.

AUDIO RECORDING PLAYED

[10.31am]

MR ENGLISH: All right. Mr Lu, if Exhibit 53, page 1, can please be brought on the screen.

20 THE COMMISSIONER: Did you recognise the voices on that - - -?
---Yeah. Yeah, that's me.

And Tommy.---Yeah, yeah.

MR ENGLISH: So if you just have a look, this is the transcript of the call. Tommy's talking about having a big major problem. You remember hearing that?---Yeah.

30 And that was because he was concerned that some of the guards that perhaps he wasn't so familiar with were getting paid for shifts where no one turned up to do the work, is that right?---Well, I don't know about, I don't know, I heard the conversation with this phone call. I don't know why he made that call. Because why I got so, so angry, like, I was thinking you already know this is happening and you pretend to act like I don't know anything. You know? So that, that's it. So, yeah.

Well, if we look at it. You see at page 1, the second-last of Mr Sirour's entries, he speaks about Mina Boutros and George Boutros being "our people".---Yeah. Yeah.

40 See that?---Yeah.

And you understood they're the people that Mr Sirour thought he could trust, right?---No, they're the people that, yeah, sort of, the people that actually do the job, like actually do something at work.

So they're the ones that stay and do the hours even though they're claiming under other people's names, is that right?---Yeah, yeah.

Well, he seems to put you and Emir into a different category. He seems to suggest that you and Emir can do whatever you want. Would you accept that?---Yeah, he did.

So he let you guys run the roster and never, well, did he ever raise an issue as to how many hours you or Emir were claiming?---He did at the start. He did with the, he got the, he'd get the, he'd get Lynn or get the office girls to come and, you know, talk to me. Yeah.

10

Yes, and so what was said during those discussions?---It was something like, "Oh, you've got too much money," or something, like, "You've got too much money," or, or you, they always goes to me, "Oh, you've got this amount of money." Like, you know, you got a lot of money this week. And then I would reply to them, I goes, "Look, if you guys want it, really want it back, you guys can have this. Take it back and just go manage it, just go run it yourself." Like - - -

20

And so when you, when you said that, did you receive a response from anyone at SIG?---No, they, they, no, they said, "I don't know want to, it's too much headache and," I was just like, "If you guys want to talk about this," like kept on saying that I've got this amount of money every week, I go, "so you guys can have it back."

But they never took it back?---No, they don't want it back.

And you didn't stop or reduce the number of hours you were claiming, is that fair?---Well, some weeks I did, some weeks no, yeah.

30

It just went on depending how many hours were requested for the purposes of ad hoc tasks, didn't it? How much you could then make through ghosting on the roster.---Yeah.

So on page 2, if that can be brought up, you talk about a fight between some guards.---Yeah.

40

Sorry, I withdraw that. Mr Sirour does talk about a fight. What was that? Was there some tension between guards as to who was getting paid more, more or less?---No, there was tension in the guards like who does the easier job, who does the easier job. Like, just say, you remember you told, you, you asked, I said yesterday there was some jobs like the library. You just need the 15 minutes or whatever to lock it up. Remember I said on the weekend?

Yes.---Yeah. Yeah, jobs like that.

So ones where they could be paid for four hours but it would only take them 15 minutes.---Or half an hour or an hour or something like that.

I think your evidence was 20 minutes max.---No, but that's, I'm just giving an example of different job. Like, jobs like that.

10 Now, on page 2 there's a discussion in the middle of the page where Mr Sirour says they went to the job, there's no problem, and he says, "The only problem is I need you to please explain to me today. I was doing the, I haven't been out of the office because Lynn, she's had some issues with her baby." He goes on to say, "She said to me, 'I don't understand who I need to pay,' and I said, okay, when I see this guy (not transcribable) collecting hours, and this is collecting hours why?" And you go on to say, "No, that's right, that's right, it's nothing, because they worked under another name, that's it." And then Mr Sirour says, "Look, Frank, we need to fix that because I'll tell you what," and you say, "Fix what?" And then he says, "SNP sent, they sent an email before and they told me I found it, found about, I found about it today, SNP thinks we're doing fraud." So what did you understand needed to be fixed at that point in time?---I, I don't know what's had to be fixed because – that's why I asked him, "Fix what?"

20 You thought it was running smoothly from your perspective?---Yeah, because it was always the way. It, it, this has been going, going on just for, for, for a long time. Like, I don't, I don't know what he want me to, what's, like, what's there to fix?

How many years had it been going on for? You said earlier today it was going on before you became responsible for rostering.---Yeah.

30 How many years had it been going on for at Sydney University?---For, as I said before, I didn't pay much of attention to it before because – let me, let me think of the year. Probably 2015 (not transcribable) you know, that I noticed a lot of guards doing a lot of hours and stuff like that. But, like, as I said before, I only did my, my own job and did my own roster and I didn't, didn't care what happened, what other people do.

So he goes on, Mr Sirour, to say, "SNP thinks we're doing frauds."---Yeah.

40 Did you ever discuss that issue in further detail with Mr Sirour at around this time?---No. I don't, I don't know. I can't remember if I met him after or not, or that was only a phone call. He never came.

Well, you say, "Why?" Did you at the time not think you were – did you at the time believe that SNP were under the impression that frauds were happening at the university?---No, no, no. Because Tommy always, I don't know why this one was recording, he always talks like that. So it's something that's been going on for so long and if, if they raised the question from SNP, I, I would, I would have heard it by, by - - -

All right. Sorry, I cut you off. Sorry.---Yeah, sorry. By 2018. I thought Tommy wanted to give you an excuse then get his people in then, I don't know what he wants do to. You don't, you don't, I don't understand this guy.

10 Well, Tommy always expressed to you, a concern that he, about potentially losing the contract at Sydney Uni, is that right?---Yeah, because, because he heard from his inside information from SNP that Multiworks is going to take over as a subcontractor, but normally, normally the subcontractor can't be there for that long.

So you said he heard from his inside information at SNP. Did he tell you who the source of this inside, who he said it was?---No, no. He doesn't, he doesn't, he doesn't tell anything like that.

And you said something about Multiworks. What was his concern about Multiworks?---Oh, that's another subbie.

20 What, he was concerned about Multiworks taking over the subcontracting arrangement?---Or whoever SNP is thinking about, yeah, thinking about, yeah, getting rid of him and replace him.

When did he first raise that concern with you?---First raised his concern because you remember, you remember the, the email you showed me before with the Camden bus?

30 Yes, yes, the fatigue issues.---So, yeah, the fatigue issue, around that, that time. Like, after they sent it so he felt something's going on and that's, yeah, that's when he raised it with me.

Now, in page 3 you see the first entry for Tommy says, "Where, where, I'll show you the emails, I will show you the emails and Frank, Daryl fixed it before," and the you say, "Well, that was a long time ago."---Yep.

40 And he says, "Yeah, well, do you think SNP, they're not looking at us now?" What was fixed a long time ago?---No, the, the, as you said the choice, the email. That's the only thing I remember that, that came. Or unless, I don't know what he's talking about, "I'll send you an email." I don't, I can't remember this email.

Well, this isn't an email. Oh, I see, but you say, "Well, that was a long time ago." So it seems like at the time you certainly understood what he was referring to.---Yeah, well, the, the choice one, the, the Liquid Paper and all that.

The Liquid Paper and ghosting?---Yeah, yeah. I just remember that one.

Now, on page 5 you start talking what you'd do to someone if you found out that, you know, they were trying to undermine SIG's contracts. Do you see that?---Yeah.

You say, "You know, if I find out about that cunt, I'll fuck him up." You agree you're displaying an aggressive attitude there?---Yeah.

10 Is that an attitude that you displayed amongst other staff at Sydney University? I'm taking about guarding staff.---Not, oh well, this, this is probably the way I talk and that's it.

All right. So did you say that in relation to the other guarding staff at Sydney University, that if they didn't do what you asked them to do, you'd fuck them up?---No, no, no.

Was there ever any sort of intimidation that you implemented towards other guarding staff at Sydney University?---No. I don't, I don't, I, personally I don't think I did. I didn't do anything to anyone.

20 What about Emir? Have you ever seen him acting in an intimidatory way to other guarding staff at Sydney Uni?---No, no, no. It's, it's just the way I talk. So yeah, so, that's the way I talk to everyone like that, even if you had heard my conversation, even with my friend I would talk like this. You know, especially talking with Tommy because I, because I know he's trying to, he's trying to, I don't know what he's trying to do when he called me. It's like, it's, because, to me he sounds really funny when he called me, like, it's something that he implemented and now he's saying that, you know, he's just making up excuses that, I don't know, I thought he was just maybe
30 bored and just wanted to talk or something and I don't know what he, he wants to do so that's why I acted like that.

If we go to page 6, please. Mr Sirour at the first entry says, "Well, I don't know. We need to talk, talk strange. You never know. You know the only problem is this guy. I'm not worried if they go to SNP. Fuck SNP. I'm worried about if they go to, what do you call it, M2, to what's his name, the, that Simon or Dennis."---Yeah.

40 Who do you understand he's referring to "that Simon or Dennis"?---Dennis Smith and Simon.

Simon who?---Simon is the one that come and, came to replace Morgan recently.

So a university staff member within the campus in the security division?
---Yeah.

And you say, "No, don't worry if they go there. That's all good. Okay."
You see?---Yeah.

So why would it be all good if someone went and made a complaint about SIG to Simon or Dennis?---Because all the jobs are done. I said all the, everything's done like, because there's no, the people I know that's not happy, not getting their hours or whatever, not, not getting much money in this way are the people that normally don't want to do anything. You know, Tommy (not transcribable) they just want to come and just want to come, sign on and just, just do nothing. Just want to do the easy job. But there's like these people that even if they go to them they, they won't be concerned and plus that's it. That's what I, that's - - -

So were you thinking at the time that if someone went to Simon or Dennis and complained about ghosting on the time sheets that it wouldn't matter because we fill the jobs anyway?---I don't think they will believe it.

You don't think they'd believe it?---Yeah.

Didn't you think, well, if someone went and complained about ghosting practices at the university to Simon or Dennis they might ask to see the time sheets and make a reconciliation themselves?---I don't know. Because, because normally they never, they never did because this is 2018. If I, I just thought to myself like if, if, if this, if someone did that they would have done it a long time ago. Why would they, why would they wait till 2018?

Well, you seem pretty confident that there wouldn't be a problem if anyone approached Simon or Dennis. Why did you have so much confidence I suggest?---Why I have so much confidence to, I don't, I don't, I don't think they, they will believe them. That's, that's why.

Now, you say down the bottom of the page, "I'm, Tommy, Tommy, I'm telling you, man, like I've got no family, no nothing. I don't give a fuck, all right, so if they want to fuck me, I'll fuck them. That's that."---Yeah. It's just - - -

What do you mean by that?---It's just a thing, just the way, it's just the way I talk to people. That, that, that's it. Nothing. It doesn't mean anything.

It's just banter, is it?---Yeah. I, yeah, I didn't, I don't think all this time I'm at the uni anyone's complained about me being aggressive or hit them or something, or swearing at them or abusive.

And over the page Mr Sirour says, "Look, look, we, I saw that and because (not transcribable) collecting hours I didn't know that he's the double shift, you know. That's the whole thing." And then you say, "No, no. He, he, he's not, he's got to work for it. No, no, you don't think Tommy after all that last year I was going to, I was going to start this again. No, no way." What are you referring to there about what happened last year?---Well, that one (not transcribable) I need to think which one, what happened last year.

Well, this is 2018, so you're referring to 2017.---Unless what I meant by this last year was - - -

I don't want unless what you meant. What did you mean?---I don't, I, I can't remember. I can't, I can't remember what I meant by what happened last year. Last year, maybe it was, maybe it was everyone's going, going, going to, like, just swap shifts or do what, whatever they wanted to do last year.

10

Well, come on, Mr Lu. I think you can do a little better.---Yeah.

You say, "No, no. Do you think, Tommy, after all that last year I was going to, I was going to start this again?" So you obviously had an issue that got resolved and you don't want it to rear its head again in 2018. What was the issue?---Let me think about this one. I can't, I really, I'll be honest, I can't, because I, I can't even remember what I meant sometimes.

20

Well, Mr Sirour says, "You're a champion," and then you say, "That's all right. Fixed. No, no. I'm not going to do it when Ali was still there." So there's a reference to Ali assisting you, and you working out what the problem was in 2017.---Oh, let me read it again. Oh, yeah, so this one I meant when Ali was still there he was handing out all the, he was just giving out the jobs and giving out the hours to everyone. Like, you know, to, to take - - -

So you mean Ali, the previous rostering manager for SIG?---Yeah.

30

That was in 2016 he was working, not 2017. And why, and you say you had to fix it. Can you help a bit more there? There just seems to be a bit of an inconsistency in that answer.---Yeah. If they've got to do their job, he, this is yours, this is yours. Because I think that's what I meant, Ali used to give it out to people, the jobs, so just to, to anyone to claim it, just to, you know, you can, you can have it, give it to everyone to claim it and just do the, take the money. I can't remember. I, I have to think about this one, what I meant.

We might come back to that.---Yeah, yeah, please.

40

Now there's another call, Commissioner, I seek to tender. It's session number 08148 from 5 March, 2018. This one doesn't bear a time stamp but again it purports to be between Mr Lu and Mr Sirour. If I can ask, Commissioner, for an exhibit number for the audio and then for the transcript, and I should say we have copies of the transcript which can probably be circulated now to the legal representatives if that's of assistance.

THE COMMISSIONER: Yes, sure. We'll mark the audio Exhibit 54 and the transcript Exhibit 55.

#EXH-54 – AUDIO SESSION 08148

#EXH-55 – TRANSCRIPT SESSION 08148

10

MR ENGLISH: I'll just wait for that to quickly go around the room and then we can play the call. Do you have a copy of that transcript, Commissioner?

THE COMMISSIONER: I don't think I have that one, no.

MR ENGLISH: I might have that handed up in a moment. Here comes a transcript for you, Commissioner.

20 THE COMMISSIONER: Thank you. Thanks.

MR ENGLISH: If that can be played please.

AUDIO RECORDING PLAYED

[11.00am]

MR ENGLISH: Mr Lu, do you recognise the voices on that call?---Yeah, that's me.

30

And who?---Tommy.

On page 1 of the transcript, if that can be brought on the screen, please, you start talking about this time sheet, "Yeah, everywhere, every single company is doing that," that you know. Are you referring to the practice of ghosting there?---With the cash and ghosting, yeah. Well, yes.

40 And then you say, "So you don't have to worry about this with SNP." Why did you say that?---Why I said that, I don't have to worry about anything with SNP, because I don't, as I said before, it's been ongoing, you know, if you, it's already cash so they already know so they, they doing something dodgy and, and they're not going to care. As long as the job's done, I don't think they will care.

So do you claim to have some knowledge that SNP was aware of the practice that was going on with ghosting guards and paying cash through SIG at the university?---I'm sure they aware of the cash but, and the subcontractors but I, with the ghosting, no, I don't know. Like, I can't, I

can't say a hundred per cent if they knew or they didn't but it's been going on a long time. So - - -

Is that just a hunch or are you basing it on something?---I, I assume they do because otherwise, because all these calls are 2018 but this thing started way before then with, like, people signing on, signing off, signing off people, you know, so if they want to do something, they would have done it by, in two years.

- 10 Have you discussed it personally with anyone from the management at SNP other than McCreadie, the practice of ghosting and the payments of cash at SIG?---No. No, I don't, I don't, yeah, I didn't talk to anyone.

Well, you say at the bottom of page 1, "Man, all these people they know, they know what's happening, everyone knows." Who are you referring to, "everyone knows"?---All the, all the companies, they all know this is, well, the subcontractors or the companies for, like, you know the prime or the principal company all know.

- 20 You're just saying everyone knows this is how it's done in the industry?
---Yeah.

Over on page 2, Tommy asked you, "They know what?" And you say, "They know people call in with fucking different names and different shifts, this and that." When you say "they" who are you referring to there?---I just, maybe I mean the SNP there.

- 30 And you say, "People calling with fucking different names and different shifts," what does that mean?---It doesn't even make sense, hey. I know I said it.

They're your words, Mr Lu.---I know but it doesn't make sense now when I read it.

- 40 It's not just locker room talk, I suggest. This is business matters, would you agree? You're talking to Tommy about the business.---It's, well, it's sort of business talk, it's just some, some phone call that he would hear then he would call you up for, like, something. Like, he would just raise some sort of issues like that, like, out of the blue, then, then, yeah. But different names and different, I don't know, people, people probably are, people using, not calling. Yeah, no, people using and different shifts.

On page 3, Tommy says to you at the top of the page, "You know in the beginning when Emir told me that we're going to keep doing that." Do you know what Tommy's referring to there? What did Emir tell him that they were going to keep doing?---You know, that would be what Emir told me, that we were going to keep doing that all and I said to Emir then, this shift covering, like ghosting and that, yeah.

And it's more than just getting other names, it's rostering the time sheet, isn't it?---Yeah.

It's getting paid when no one turns up for a shift, isn't that right?---Yeah.

And that would make Tommy happy he's doing more hours.---Yeah.

Makes you or Emir happy. You're making more money.---Yeah.

10

And you say Dennis Smith was happy with the services that were being provided, is that right?---Yeah, because there was no, no issues ever. Like, no issue came from – what I mean by no issues, no issue from the, from the staff, the student or the, or the public. There was, like, no - - -

No complaints.---No complaints, no like people feel unhappy about service or stuff like that. That's what I meant.

Mr Sirour goes on in that passage to talk about an engineering job.---Yeah.

20

What's the engineering job, do you know? Do you see what he says here? "The whole thing is, Frank, I know that sooner or later it's going to have, come up with you, you, that engineering job." What's he referring to there, do you know?---Well, it's about some, probably about some power shutdown or demolition or something.

What, you rostered some shifts when there was a power shutdown linked to an engineering job or something?---Maybe something, something like that will come up. Some jobs were, they were coming, coming, they were coming up and you could just do the same.

30

And then you go on and talk about change in subcontractor, and then you say, "Well if he, if you leave, we get another subcontractor and then that's it, man. We'll act all professional with him and that's it."---Yeah.

So Multiworks stepped in after SIG left.---Yeah.

Is that what happened? You acted all professional?---Yeah.

40

No more ghosting?---No.

What did you do when you got a call at – well, you probably didn't have the rostering duties when Multiworks were there, is that right?---No, they, I don't want to do, like, as I says before, I don't want to do it after. After, after the April, no, I don't want to do it anymore.

You didn't ring Multiworks and say, "Hey, I've got expertise in rostering. I can do it for you"?---No, no, no.

Now, Mr Sirour says in the last passage, starting at the second line, “You guys take whatever you want because I’m making my profit too.” Do you see that?---Ah hmm.

Is that his attitude with you, as soon as you became the rostering manager? You could take whatever you wanted?---Sort of, yeah.

10 At the same time, he’d still come back to you and say, “I’m short because I can’t afford payroll tax, so you’d better help me out”?---Yeah.

Did you ever ask him why it was, if you’re paying guards in cash, you have to pay payroll tax?---I believed it and I never asked him. I believed it because he, because as I said yesterday, he will call you for some, create some, some issue then, then, you know, get someone else to call you to talk about the same thing and stuff like that.

20 If we go to, if we stay just at the bottom of page 3, you can see that he starts imploring you to be careful. Mr Sirour says, “That’s all that I want you to understand. Be very careful. Make sure you always say,” and you say, “Oh, do you know, yeah, yeah, I know.” What are you saying there? What do you, what do you know that he’s referring to?---Go back, go back again.

Yes.---Oh, be careful about, it’s, it’s about the time sheet, the names and stuff. That’s what he was referring to.

30 Well, you say, “Oh, do you, do you know?” “Yeah, I know.” So you’re asking Tommy if he knows something.---No, no, no. I said, “Oh, yeah, I know.”

Okay. All right.---No, I don’t, I, maybe I mumbled these words or something.

All right. And then Mr Sirour says, “Because remember one thing, you sign on the time sheet by your hands, Frank,” and that’s right, isn’t it?---Yeah. Yeah.

40 He says, “It’s very important. You need to be very careful.” Was this something that he said as soon as you took the position in April of, in August of, April of 2016? August of 2016. That you needed to be very careful with the time sheets?---Maybe he did. I can’t remember this one, no, I can’t remember.

And then he goes on to say, if you see the second-last line, again he’s saying, “You have to be careful. I know as long as Dennis staying there we’re safe and all that stuff.” Do you see that?---Yeah.

And you say, “Yeah.”---Yeah.

So why on earth would you be safe if Dennis stayed there?---Because we've been working there for so long and we never stuffed up any job so, yeah, so Dennis would be, be all right with us.

Is Dennis not smart enough to work out what's going on with the time sheet fraud?---He never, he never approached me about it. Never say nothing to me. Not to me personally or say something to someone like not to me.

10 Was he really so unsophisticated he couldn't work out that any of this was occurring under his nose?

MR BENDER: I object. It's a question about Mr Smith's sophistication or state of mind, neither of which are matters the witness can give evidence about.

MR ENGLISH: I'll rephrase it. You say your whole time working there notwithstanding that ghosting on your evidence was going back from 2014, yeah?---Yeah. Well, yeah, that's what, yeah.

20

Mr Smith never raised once the prospect that there might be a ghosting practice going on in relation to the security guard services at Sydney University?---No, he didn't, he didn't raise it with me. Not, not that I'm aware of, no. Not with me.

This is a conversation you're having with Mr Sirour about the need to be careful in relation to time sheets. You're stressing the importance of being careful, you see?---Yeah.

30 And then he says, "As long as Dennis is there we're safe and all that stuff." And you say, "Yeah."---Yes.

Right?---Yes.

Surely you're saying yeah because you know Dennis is aware of the time sheet matters that are going on at the university and he doesn't care. That's your understanding, isn't it?---Well, he, yeah, that's what I said. I said he never, never approached me about it but I don't know whether he really knows or not. I don't know.

40

But you thought in your mind that he must know because it's been going on for so long, right?---Yeah, sort of, yeah.

He's turning a blind eye, was he?---He never approached me. He never say nothing so I thought it's just going to be okay.

So you thought you had the green light from Dennis to do the ghosting on the time sheets, was that what you thought?---Yeah. No one, no one say nothing from, from, from the management.

Well, it's a bit more than just not saying nothing. You thought Dennis would go so far as protect the practice that was going on there, didn't you?
---I, I just said yes and I know nothing will happen. He was just, just let it go, go on.

10 I asked you on your first day of evidence if you had ever met Dennis off campus.---No.

Do you remember that?---Yes.

You said you haven't.---No.

That's truthful evidence?---Yes.

20 Have you ever sought advice from Dennis in relation to matters relating to the ghosting practices at Sydney University?---No.

Never?---No. I don't, I can't remember but I don't think I ever talked to him about anything about this.

After the warrants were executed did you ever go off-site with Dennis to get some advice from him as to how to act?---Yeah, he just told me just, not off-site, just inside the uni, he told me just be honest with them. That's what, that's what happened. I didn't go meet him off-site.

30 Well, what did you ask him for when he gave you that advice, just be honest with them? What did you raise with him?---I just said, you know, just maybe that's, like this issue is going on, you know. Obviously something happened, you know, about, like I said I covered a lot of shifts, stuff like that and, and people were, I told him people worked under other people's names and stuff like that. He goes, he goes to me that from, from his experience, like if ICAC calls you just tell them the whole truth.

Let's just go back on that.---Yeah.

40 So the warrants were executed.---Yeah.

You've then had a discussion you say on campus with Mr Smith, right?
---Yeah.

Come forward, please, so it picks it up.---Yeah.

And what, did you say to him, hey, guess what, Dennis, we've been filling out these false time sheets back since 2014. What should we do now? Is

that what you said, something along those lines?---No, no, I didn't say because he already, when I approached him he already know what's going, what's going on.

So he had a familiarity with the practice when you raised it with him?

---He, he knows.

10 THE COMMISSIONER: What did he say?---He just, he just said he, when they call you, when they call you just be honest with them, like, just tell them whatever you know.

No but what did he say about the practice of ghosting?---He, he act like he doesn't, he didn't know. He goes to me stuff like, the library and stuff, so he goes to me, "So everyone's in that?" Stuff like that. He act like he's surprised and stuff. So, along these lines but yeah.

20 MR ENGLISH: So you went and saw him?---No. Just in the, like, I come to, come to work next day and then he will talk, I just said, oh, you know then he would just ask you who's involved and stuff like that.

Well, did he say how he knew it related to ghosting, why the warrants were issued?---No, he didn't. All he said, he's like, yeah, who's involved. "So everyone's seen it?" I go, "Yeah".

30 So he asked you who's involved?---No, so he goes, he also said something, like, that's all happened different days. He said the university internal audit now is checking on some Fisher Library or something, so you know, and stuff like that and so "Frank, everyone's seen that?" I go, "Yeah, everyone's seen that."

THE COMMISSIONER: Sorry internal audit are looking at Fisher Library?---Yeah.

Was that before or after the search warrant were executed?---That's, that's after because I wasn't working that day, the search warrant, other day I was there, yeah but he, so obviously it was a big issue, then, yeah.

40 MR ENGLISH: So you said to him everyone's been involved, it's gone back, it's been going on for years, and did he say, oh my God, I can't believe you've misled me like this for all these years? Did he say anything like that?---No. He didn't show any emotion, like, he goes, so he goes to me, "Oh, so everyone's involved in this with you?"

Do you get the impression he might have been feigning surprise?---He - - -

Pretending to be surprised when he wasn't?---No. He didn't have any emotion with him, like, that, that I remember.

THE COMMISSIONER: So he didn't appear to be angry, didn't seem to be angry?---No, he just didn't talk too much. Like, I, you know, didn't, didn't say too much and that's it.

MR ENGLISH: Now that was in April, 2018. You quit work in December, 2018?---Ah hmm.

10 He didn't say to you, well, you'd better reconsider your position here if you've been dishonest with the university for so many years? Did he suggest that to you?---No. He said just - - -

Business as usual, did he?---Yeah. Yeah. Just like, everyone, that's what everyone's been saying, even SNP's been coming business as usual but I, I know I won't get, have a job soon so I, you know, I just left. I, I waited it out and left.

So the only advice he gave you was to be honest with ICAC?--- I'm serious, yes.

20 Did he say, I want you to stop the practice immediately?---No, no.

Did he say, I want to get a copy of all the time sheets going back to 2014, so I can conduct an audit of this to find out what's gone on?---No, no. Because all the time sheets were taken, I think, that day, before. He didn't, no, he didn't say anything like that.

Is that the only conversation you'd have with him in relation to the warrants?---After the warrant, yeah.

30 I might play another call, Mr Lu.

THE COMMISSIONER: What date's this one, Mr English?

MR ENGLISH: See if it jogs your memory at all. This is session – oh sorry, I've missed, would you like to do that after the break?

THE COMMISSIONER: No, no. We'll go on.

40 MR ENGLISH: This is session number 01033 from 23 April, 2018 at 10.54.17. The conversation purports to be between Mr Lu and Mr Balicevac. I might tender that. If we can have the transcripts handed out now, if you can provide exhibit numbers for the audio and transcript, please. Commissioner.

THE COMMISSIONER: The audio will be marked Exhibit 56.

#EXH-56 – AUDIO SESSION 01033

THE COMMISSIONER: And the transcript will be marked Exhibit 57.

#EXH-57 – TRANSCRIPT SESSION 01033

10 THE COMMISSIONER: But before it's played, I'd like to ask the witness a few questions myself.

MR ENGLISH: And I should ask, have you got a copy of the transcript, Commissioner?

THE COMMISSIONER: Yes.

MR ENGLISH: Yes.

20 THE COMMISSIONER: Did you ever meet Mr Smith at Broadway?
---Yeah, yeah.

When was that?---A few days after. I wasn't working, then I met him.

And was that at a time different from the meeting you've just been talking about with Mr English?---Sorry?

30 Was that on a different occasion? I think you said you'd met him within the campus. I'm asking whether you met him at Broadway and you've said you did.---Yes, yes.

So was that another occasion you met him?---Yeah.

To your knowledge did Emir ever provide any gift or benefit to Mr Smith? Think very carefully before you answer.---Yeah.

What was it?---It was just a, I think it was just a pinball machine or something.

40 A pinball machine. And did you make a contribution to the purchase of that?---Yeah.

How much?---It was six or 8,000. I can't remember. It was off my Amex credit card.

Do you want to just follow that up before we play that call? Get some more detail?

MR ENGLISH: Do you recall when that was that you provided six or 8,000 to Mr - - -?---I think the beginning of 2017 or end of 2016.

And you said a pinball machine.---Some, yeah.

Did Emir tell you he wanted to buy a pinball machine for Mr Smith, did he?---Yeah.

10 Why?---He just wanted, because he wanted to give it to him because I, I made so much money that before then he said he was going to give, give him this machine by, but I don't know whether he really gave it to him or not.

As a thank you for allowing me to earn so much money down at Sydney University, I'm going to give you a pinball machine? Is that your evidence?---That's what, that's what Emir told me, but Dennis never approached me about anything like that.

20 THE COMMISSIONER: No, I understand that.---Yeah, mmm.

But was that one reason why you thought that Dennis wouldn't cause trouble?---Yeah, sort of.

And you made a payment, I think, of your credit card.---Yeah.

Emir never paid it back, did he?---No, I haven't got it.

30 And was it your understanding that Tommy contributed to that as well?---I don't know.

You don't know.---I don't know because it was, I paid half then, you know, then I don't know about Tommy whether he actually paid or not paid. I don't know.

MR ENGLISH: So is your understanding that your six or 8,000 was to pay for half of the pinball machine?---Yeah.

40 So its value to your understanding was, what, 12 to 14,000?---Something like that.

Why did you, if you weren't getting the money back, why did you offer it? ---I didn't offer it. Like - - -

What, Emir asked you for it, did he?---Yeah.

What, just to give him six to \$8,000 so he could purchase a pinball machine for Dennis Smith?---No, no, no. Buy a machine or something to, one of the two, just to give it to him.

But why would you give Emir that money for that purpose?---Because we, we made, we made money.

Well, then wouldn't you want Dennis to know that you'd contributed to the machine so he could look after you in return?---Yeah, I do, but, but - - -

So - sorry?---Yeah - - -

10 THE COMMISSIONER: I suppose it didn't really matter, did it? If what the witness is saying is correct, it wouldn't really matter, would it, whether it was Mr Lu or Mr Balicevac.

MR ENGLISH: So if I can ask you this, you didn't say to Mr Balicevac, "Can you please ensure Dennis knows that I've kicked on this so he can, you know, maybe look after me down here too?"---Yeah, I wanted to but I didn't, but no one, I don't know if (not transcribable) or not. I, yeah, if you're asking me if I wanted to, yes.

20 Have you ever played the machine?---I've never seen the machine.

Do you know what type it was?---I haven't even touched it, no. It was - - -

THE COMMISSIONER: Go on, put it out there. You didn't know it was Spider-Man or Spidey?---Maybe. Maybe one of them is Spider-Man, Batman or something like that. I never, I never actually played the machine or seen the machine or - - -

30 MR ENGLISH: Did Emir show you an invoice so you knew you were actually getting what you paid for?---Yeah. Yeah.

So, what, he showed you, after he bought it he showed you an invoice and said, "This is it. I've paid for it. It's going off to Dennis's"?---Yeah, that's what he, he said. But apparently he's the one that bought it, but then after that I didn't follow up, like, too much. I don't know where he went because I never, ever seen, just seen the, I seen the invoice but nothing else.

40 Did you ever speak to Emir about whether Mr Smith had a liking for pinball machines?---Maybe, yes.

Well, you spoke about horses with Mr Smith, right?---Yeah, yeah.

Do you know whether he liked amusement games?---No, I know he likes gambling.

Well, that's a different thing,---Yeah. Yeah.

There's pinball machines around Sydney University in some of the cafeterias, aren't there?---Yeah.

You ever see Mr Smith playing those pinball machines?---No.

I note the time, Commissioner. We've got a call to play. Perhaps that can happen now. I'm in the Commission's hands.

10 THE COMMISSIONER: We'll leave it. We'll leave it. We'll have 15 minutes. Thank you.

SHORT ADJOURNMENT

[11.30am]

MR ENGLISH: While he's doing that, Commissioner, there's some statements I wish to tender.

20 THE COMMISSIONER: Take a seat.

MR ENGLISH: There's four statements. I can hand up a bundle if that assists you.

THE COMMISSIONER: Yes, it would actually. Thank you.

MR ENGLISH: The first is the statement of Domenic, D-o-m-e-n-i-c Giardini and it doesn't bear a date, at least, at the top of the statement but it appears to have been signed on 31 January, 2019.

30 THE COMMISSIONER: The statement of Domenic Giardini will be admitted and marked Exhibit 58.

#EXH-58 – STATEMENT OF DOMENIC GIARDINI DATED 31 JANUARY 2019

40 MR ENGLISH: The next statement is a statement of Linda Kim Willard. This one's dated 28 November, 2018 and there's a supplementary from Ms Willard too, but if that can first be marked with an exhibit number, please, Commissioner. I can hand up another one, I'm sorry.

THE COMMISSIONER: No, that's okay, no, that's all right. I'll just - - -

MR ENGLISH: I've just got one here.

THE COMMISSIONER: So the first one is 28 November?

MR ENGLISH: 28 November. I'm handing it up now.

THE COMMISSIONER: No, I've got that.

MR ENGLISH: Oh, you've got that?

THE COMMISSIONER: Yes.

10 MR ENGLISH: You do, sorry.

THE COMMISSIONER: I think I've got two of them.

MR ENGLISH: That means you might not have the second statement.

THE COMMISSIONER: No, I've got one also dated 19 December.

MR ENGLISH: Oh, good. Yes, that's the supplement.

20 THE COMMISSIONER: The statement of Linda Kim Willard of 28
November, 2018 will be admitted and marked Exhibit 59.

**#EXH-59 – STATEMENT OF LINDA KIM WILLARD 28
NOVEMBER 2018**

MR ENGLISH: Then there's the statement of Linda Kim Willard dated 19
December, 2018. I tender that.

30 THE COMMISSIONER: The statement of Lind Kim Willard of 19
December, 2018 will be admitted and marked Exhibit 60.

**#EXH-60 – STATEMENT OF LINDA KIM WILLARD 19
DECEMBER 2018**

MR ENGLISH: And the statement of Fawad Walizada dated 24 December,
2018, I tender that as well, please, Commissioner.

40 THE COMMISSIONER: Thank you. The statement of Fawad Walizada of
24 December, 2018 will be admitted and marked Exhibit 61.

**#EXH-61 – STATEMENT OF FAWAD WALIZADA DATED 24
DECEMBER 2018**

MR ENGLISH: May it please.

THE COMMISSIONER: Thank you.

MR ENGLISH: Now, if the call with session number 01033 from 23 April, 2018, which is Exhibit 56, can please me played and a full transcript of this call has been provided to the parties.

THE COMMISSIONER: Thank you.

10

AUDIO RECORDING PLAYED

[12.02pm]

MR ENGLISH: So, Mr Lu, in this conversation you discuss meeting with Mr Smith at Broadway and it's a discussion you're having at the time with you and Emir?---Yeah.

And I think the conversation indicated that it was Mr Smith who said he wanted to see you down there.---Yeah.

20

So you gave some evidence earlier that you'd never seen Mr Smith off campus. Do you remember that?---Yes.

That wasn't truthful evidence, was it?---But like with this one I was supposed to, I was supposed to go to work that day, like Broadway didn't click in my mind, like this one seriously I didn't click in my mind that like I've met him outside because I kept on thinking if I, if I met him like outside of the uni, like Broadway is still next door, like - - -

30

You weren't working this day, Mr Lu, were you?---No. No, no, no. I was supposed to but then I called, called I don't want to work.

And you gave some other evidence I think that essentially after the warrant was executed you just bumped into Mr Smith in the hallway at the university. Remember giving that evidence earlier today?---Bumped into the hallway?

40

You saw Mr Smith on campus and discussed the execution of the warrants. ---No, that's in his, at his chair, like just in the office area.

Well, you never said that he actually asked to meet you off campus to discuss that did you?---No, no.

You weren't being truthful then when you answered those questions earlier, were you?---It didn't come, come up in my mind that I met him. I really, really even can't remember that I met him in Broadway until you mentioned because I kept on thinking that the talk was, like it's inside the office or outside.

Well, just think, what did you talk about with Mr Smith when you met him in Broadway?---Okay.

What did you discuss with him then?---He just asked me what had happened. So you guys have been doing these, these sort of things (not transcribable). He goes who else is involved and stuff like that and I goes, I goes, so, and he told me stuff like, you know, once you get thing, once you get called, if you get called in just tell them the whole truth.

10

But, Mr Lu, that was your evidence that you had already had that discussion with him I think on-site.---Yeah.

Why would you meet him in Broadway and he'd just ask you the same thing?---That was, I think the Broadway was that he just want to know, he just wants to, he just wants to know. Let me think what he said because I just went to see him and stuff so, if you could remind me of something. Sometimes I can't, yeah.

20 Well, let's have a look at page 3.---Yeah.

THE COMMISSIONER: Just before we go there, did he contact you to have a meeting with him, did he?---No. I think he asked me that day now, I remember he asked me that day if like, if I'm in or not, at work or not but I said I'm not, I called in sick. I don't want to go to work. Then, yeah, then he goes, oh, then he just go, "Go to Broadway then."

30 Did he tell you why he wanted to meet you at Broadway?---No, I don't think, I can't, I can't remember. It was all in the text message. Maybe I said he told me. I can't like remember.

MR ENGLISH: So, Mr Lu, just have a look at page 3 if you can, please, towards the bottom.---Yeah.

"Maybe, maybe Dennis is going to tell me that he just retire." See that? ---Yeah.

40 Why did you say that? Why would Mr Smith retire as a consequence of the circumstances that were occurring at the time?---Because, well, he's the boss so if someone's trying to find the responsibility, then it's his.

But only if he knew what was going on, right?---I thought even, even if he doesn't know, he, he, he will get the blame as well.

Come on, Mr Lu. You know that he knew what was going on at the university, don't you?---Yes, but never said that to me. Like, he never admitted to me or, yes, he didn't come up and say, yeah, Frank, I know what you're doing.

And then you go on and say, "Maybe DS just going to tell me to resign."
And if you're saying that, that's because you're in your mind aware that Mr Smith knows that you've been doing these practices down at the university.
---Yeah, maybe, but he never mentioned it to me. Maybe he knows, maybe he didn't. I, yeah.

And then you go to - - -

10 THE COMMISSIONER: But as I understand your evidence, when you met him – either on this day or at campus – you told him what you'd been doing.---Yeah.

So whatever was the position up to that point in time, you certainly knew after that.---Yes.

MR ENGLISH: And just to be clear, so, I mean, is it the case that you spoke to him at campus?---Yeah.

20 And you say you told him what your involvement was in the time sheet scheme.---Yeah. Yeah. Yeah.

Told him everyone was involved.---Yeah.

And then after that he rang you and said, "I want you to come and meet me down at Broadway."---I don't know if that happened before that, the Broadway or the, or whether that, he, he was still there, but I remember I just had these conversations with him, yeah.

30 Well, the warrants were executed on 18 April. This is now the 23rd, so some five days later. So is it likely that you'd had a discussion with him prior to the 23rd and told him your involvement?---I think this Broadway, maybe Broadway came first or something.

Well, then - - -?---Well, I, I - - -

Well, then your evidence about - - -?---I don't, I don't, yeah - - -

40 Then your evidence about meeting him at work and explaining it to him at work must have been make-believe if Broadway came first.---The dates, I can't remember exact dates.

Because you wouldn't have told him the same thing twice, once on campus and once down at Broadway.---No.

You agree?---Yeah.

Go to page 4. See Mr Balicevac asks you, "He wants to see you down there," and you say, "Yeah."---Yeah.

This is a meeting off-site when you're not at work, following the execution, five days after the execution of warrants on campus.---Yeah.

You've got Mr Smith ringing you saying, "I want to meet you at Broadway."---Yeah.

10 Do you stand by your evidence that it was just so you could tell him that you'd been involved in the time sheet scheme?---And the (not transcribable) saying that just, like, you know, I give him the, you know the, the, the gift cards and all that? Gifts and all that?

Oh, yes.---(not transcribable) doesn't talk about it. Just, that's it.

20 So, what, when you had a conversation with him, he said, "Keep your mouth" – I withdraw that. He said, "Don't tell anyone about the gift card you gave me"?---Yeah, and, like, the, don't say that we've been, I think about the horse, horse tips. Yeah, stuff like that, like the gifts and stuff like that.

Had you ever told Mr Smith you were getting paid to do the rostering at SIG?---I think so. I think so.

When did you tell him that?---Maybe he asked me one day and I goes, yeah, yeah, I get (not transcribable) he knows I do the rostering.

30 If we just focus on page 4. You said - - -

THE COMMISSIONER: He told you not to mention the gift cards, did he? ---Like, the gifts, yeah, and all that. Like, that's it, and as I said before, then he goes, oh, just say whatever, you know. Like, whatever they ask you, then you're just going to, just going to tell them.

40 Tell them the truth but don't tell them about the gift cards.---And the, the, the horses and, like, just, just all these things with him, like, you know, nothing, basically doesn't want anything to do with him. And it's like, like he basically is like, it's all the, like, basically it's me, I'm doing the roster and Emir does the, whatever, the RFS, and it's basically nothing to do with him.

Did he mention the pinball machine?---Pinball machine, he didn't say pinball, he just go, no, no, he just didn't, didn't say the word. Like, I probably knew what he was on about, he didn't say, say that.

Doing the best you can, tell us what he said? As you can recall, what did he actually say to you about it?---He just, just what's going on, like, after

what's happened there, you know, that he's got some issues, like, with the neck and you, you know, if they mention gift cards then, then don't, don't say nothing and stuff like that but he didn't, like, you know, but I, he didn't say the word. Not with the pinball machine, no, but well, I understand that maybe that's what he meant but he didn't, like, say, like don't say nothing about it.

Well, is it fair to summarise it this way, that what he said was something to the effect that he didn't want you to mention any benefits that he received?
10 ---Yeah.

Is that fair enough?---Yeah.

Thank you.

MR ENGLISH: If you just look at page 4, thank you, Commissioner. Do you see Mr Balicevac says to you, "Yeah, well Frank, I was sending you, I was, I was the one who was sending you, brother, the shifts to cover. You was all covered." Do you see that?---Yeah.
20

Do you know what – what did you understand Mr Balicevac to be referring to there?---He send the RFS and I cover the shift.

But, "You was all covered," what do you understand him to mean by that?
---That he thinks that he want to put the blame on me, that's what I understood, that's it's all right, whatever, you know.

What, that Mr Smith might want to put the blame on you but it's all good because Mr Balicevac's got you covered?---No, no, no. That all covered,
30 it's covered, the shifts are covered. Not like, him, him covering. No. That means the shifts are covered. Like, the shift are covered, you, you was all covered, what he meant, I gave you the job, as far as I understood, you covered, I don't know anything, that's what he meant.

But then you laughed. There was a series of laughter after he said that.
---Because he's trying to put the blame on me, that's why I started laughing. Yeah, that's why I started laughing.

But the shifts weren't covered.---No. He knows.
40

They were only covered in the roster, only covered in the time sheets, they weren't covered on campus.---That's why I started laughing. Like, I didn't want to have, like, a debate over it. Like, it was, just like, you know, no point.

And do you see on page 5, see there's a reference to shortfalls? There was no shortfalls and you say, "Yeah, and?" And he says, "There were no shortfalls, no shortfalls." What's the reference to shortfalls? You've said,

“Yeah.” What’s that?---Shortfalls, like, I understand as the, like, no one there, like, shortfalls.

What do you mean no one there?---Like, you know, the shift, there’s one missing.

10 So, what, the time sheets have got the right information in them, do they? I don’t understand what you mean.---There was no shortfalls, there was no shortfalls, no he’s trying to, oh so, he’s probably trying to say that he, as far as he knows, he, that’s all good, all covered. He doesn’t, basically he’s trying to say he doesn’t know anything to me.

And he goes on to say, that’s Mr Balicevac, “Cause he said to me, come in, business as normal. He said that, he said to me, come in on Monday, business as normal.” Do you see that?---Yeah.

20 Have you understood him to be referring to Mr Smith there who said that, come in, business as normal?---Yeah, just to come to work, business as normal.

Now, did he say that to you, Mr Smith, just come in, business as normal? ---Sorry?

Is that something he said to you, Mr Smith?---Yeah.

So he said, come in, business as normal?---Yeah. That’s what everyone’s been saying in there.

30 So you said I’ve got to confess to you, we’ve been ripping off down here since 2014, everyone’s involved and Mr Smith’s comment is tell the truth, but come in, business as usual?---Yeah, yeah.

That’s really your evidence?---I swear this one, that’s what everyone’s been coming in and saying, the, the two people in the, in the Sydney, in the control room.

I suggest you’re not being truthful about this discussion with Mr Smith on this day. What do you say?---Sorry?

40 You’re not being truthful about your discussion with Mr Smith at Broadway on this day. What do you say about that?---What, I’m not being truthful for
- - -

Yes. You’re not telling the truth about the discussion you had.---I, I just told the Commissioner, like, basically about the, the gifts and all that.

THE COMMISSIONER: Did you form the impression that the reason he wanted to meet you was to let you know that you shouldn't mention that he had received any benefits?---Yeah. Yeah.

And did you understand that that was one reason why he wanted to meet off-site rather than on-site?---No, but he's, I'm, because I called in sick that day. I couldn't go in.

10 Of course.---So otherwise he saw I was at work because it was my only shift, yeah.

Thank you.

MR ENGLISH: And then on page 9, please, you see at the bottom, you say, "I see what DS want, man. All right, brother." And Mr Balicevac says, "Yeah, and let me know."---Yeah.

20 Did you get back to Mr Balicevac about what Mr Smith had told you?---I think so. I think I did, yeah.

On page 10, there's a reference at the bottom. You talk of a Mick.---Yeah.

Who's the Mick?---Someone that works, works there.

Works where?---At the uni.

What, as security guard?---Yeah.

30 And then on page 12, Mr Balicevac says to you in the middle of the page, "Frank, about my thing." I think that actually was about the machine was my interpretation when I heard that played.

THE COMMISSIONER: We can check that later if you like.

MR ENGLISH: "Okay, hmm, about the pinball machine. If DS asked me, act like you don't know, okay?"---Yeah.

40 And you say, "Yeah." Mr Balicevac says, "Okay. Mmm." Then he says, "He asks, just say I have no idea what you're talking about."---Yeah.

Why did you understand that Mr Balicevac gave you that instruction?---Not sure but it's always been like that. I never discuss this pinball machine with Dennis, so Dennis doesn't want anyone else to mention it maybe.

So you understood that Dennis wanted it only between him and Emir?
---Yeah.

And so he didn't raise it, Dennis, when you saw him at Broadway, the pinball machine?---He hinted but, you know, didn't say the word, as I said before. Like, he didn't say the word, like the pinball machine. Just hinted.

A nudge and a wink, was it?---Yeah, yeah.

How do you hint at a pinball machine?---I can't, like, you know, you ask, some questions you ask like – I can't, I wouldn't be able to answer it. If you can put it in a different, different way. If you could, if you could - - -

10

Well, you got the impression that he was hinting not to say, Mr Smith was hinting not to say anything about the pinball machine.---Yeah.

I mean, how did you get that impression?---Because, because, like, he didn't mention it to me but then he shouldn't, like, he should know. Like, that's the only thing we, we, we gave to him, I think, with Emir. So - - -

THE COMMISSIONER: You said you gave him racing tips.---Tips and all that, yeah. Like something big that we gave him.

20

MR ENGLISH: Did you lend him money to gamble on the races?---No, no, no.

Did you borrow any from him?---No. No.

THE COMMISSIONER: Was it you that gave him gift cards?---Sorry?

Was it you that gave him gift cards?---Yeah.

30 Was that the evidence yesterday?

MR ENGLISH: Yesterday or the day before, yes.

THE COMMISSIONER: And did that happen on one occasion or more than one occasion?---I gave him the gift card with a, like a, from, I got the \$100 off Tommy.

Yes. Oh, that's right.---Yeah.

40 Yes, thank you. I remember that now.---Yeah.

MR ENGLISH: Are you aware of Mr Smith being given any other gifts beyond the gift card you've spoken about and the pinball machine?---No, no, not really, like I didn't, he didn't say anything to me about the gifts he received.

But has Emir said anything to you about gifts being given to Mr Smith?
---Maybe, maybe something about the, at the lunch or something Tommy

came and gave him something but I don't know, like some, like personally I don't, yeah, maybe just small gift cards and stuff like that.

THE COMMISSIONER: At a lunch?---Like they, they meet up somewhere with Tommy. They meet up somewhere with Tommy and - - -

And you're telling me what Emir said to you?---Yeah.

All right.---Well, but - - -

10

But you weren't at the lunch, no?---No.

MR ENGLISH: Commissioner, I might ask that an SMS be tendered and brought up on the screen.

THE COMMISSIONER: Yes, before you do, can I just take up a couple of things. Can you just go back to page 6. Is that on the screen? Thank you. ---Yeah.

20

Down the bottom, towards the bottom Mr Balicevac asks, "How is Dazza?" And you respond, "Dazza is fucken, fucken shitting his pants, brother. I never knew Dazza was like this, brother."---Yeah.

What were you intending to convey there?---Like, you know, if things happened happened, you know, so just face it.

30

I assume from that that – let me put it another way. What was it that you heard or observed that made you conclude that Dazza was shitting his pants?---Well, just heard, I think I heard that he was crying or something to Simon and Dennis and saying that SNP wouldn't get him a lawyer.

Did he say that to you?---No, no, that's just what I heard. I don't, I haven't seen him.

The other thing I was going to ask you is that on the second-last page, that's page 13, down towards the bottom Balicevac says, "Okay, bro. Does it end today?" And you said, "Hey, Emir, we're all being recorded now, bro." ---Yeah.

40

And he responds, "Yeah, I know. Okay, bro. I'll talk to you when you see him okay, Frank, okay." Were you concerned that your telephone call might be recorded?---Yes.

And does that explain why you and he referred to Mr Smith as DS rather than - - -?---Yeah, yeah, Dennis, yes.

So that if anyone was listening they wouldn't be able to identify who you were talking about?---No, no, no, no. What I, what I meant about this

recording is like, you know, the thing's already done. You already got the evidence and we just got the names and covered the shift and the facts is there so - - -

But why were you calling Mr Smith DS rather than Dennis?---That's what he's been called. Everyone, everyone calls him and he puts in the email DS, yeah.

10 Oh, does he? I think actually I saw an email yesterday where that was - - -?
---Yeah doesn't put like normally Dennis or, everyone calls him DS in the office.

Okay.---Yeah.

Thank you.

MR ENGLISH: Thank you, Commissioner. If I can tender an SMS communication with session number 12073. It's from 9 April, 2018 at 21.56.06.

20

THE COMMISSIONER: And who is it from?

MR ENGLISH: It purports to be from Mr Sirour to Mr Lu. Do you have that, Commissioner?

THE COMMISSIONER: Just bear with me for a second. 9 April?

MR ENGLISH: 2018.

30 THE COMMISSIONER: 2018.

THE WITNESS: Yeah.

MR ENGLISH: Just hold on.

THE COMMISSIONER: No, I don't think I do have that one.

MR ENGLISH: It's on the screen. I unfortunately don't have a - - -

40 THE COMMISSIONER: No, that's okay. That's all right.

MR ENGLISH: Can it receive a marking notwithstanding that you don't have a hard copy, Commissioner.

THE COMMISSIONER: That's fine, yes. Yes. The SMS from Mr Sirour to Mr Lu of 9 April, 2018 will be admitted and marked Exhibit 62.

#EXH-62 – TRANSCRIPT SESSION (SMS) 12073

MR ENGLISH: Now, this purports to be a message from I think Mr Sirour to you.---Yeah.

Yes. Do you remember receiving this message?---Yeah, I talked about this with him.

10 So Mr Sirour says to you, “Daryl, Simon, Dennis and Emir having a meeting tomorrow in regard SNP.” So Daryl is Mr McCreadie?---Yeah.

Simon’s who, do you understand?---That’s, that’s the new security manager.

Dennis is Mr Smith?---Yeah.

And Emir. And then he said that, it says “noting”, I think it should read, “Nothing won’t happen because Dennis will stop it.”---Yeah.

20 Now, you said you’d had a conversation about this, have you, as well, this issue. Was that your evidence just then?---About, it was about Multiworks coming in, about that.

So you understood, what was Mr Sirour implying that Dennis would stop? ---Well, stop them changing the subcontractor.

And had you had a discussion with Tommy about that?---Yeah.

30 And what did he say to you? How was Dennis going to stop that happening?---He send, he send some email to Tom Roche.

Saying what?---Saying that he’s happy with the, with the, with the service and stuff like that.

And what were you told, if anything, about the meeting that Daryl, Simon, Dennis and Emir were meant to have on 10 April?---Oh, I can’t, I can’t, I, I can’t remember. It was about, it was about this, it was about this kind of, SIG and new subcontractor.

40 And were you given any reasons as to – I withdraw that. Were you given any information as to the reasons Dennis would use to stop it happening? ---No, he told me. He told me. Like, I know because he was writing the email at work to send to Tom Roche.

So you were there when the email was written?---Like, I seen the email. Yeah.

And were you there when it was being written?---Yes.

Emir was there, wasn't he?---I'm not sure if he was there that day or not because, yeah, I'm not sure if he was there or not because I, I, I remember I seen that because he put in, like, he was tying it and she showed me, this what I write and - - -

So he called you over to show you the email he was typing to Tom Roche? ---Like, I walked out, yeah, I walked out or something and I seen the, this email in the end because Emir forwarded it to me. Yeah.

10

THE COMMISSIONER: Did you see any drafts of it or did you just see the final draft?--- I can't, it's oh - - -

Can't remember?---No, yeah. But I seen the email. I seen the email.

MR ENGLISH: And I've shown you some messages where you've indicated it seems Dennis won't, you know, it seems that Dennis would do things to prevent the escalation of a potential complaint. Do you recall those messages? Did you understand Dennis was someone who could be relied on to look after SIG's interests at the university?---Yes.

20

What gave you that impression?---That SIG's been there for, for a while and, you know, that we, that was all right comparing to the other subcontractors they had. Just, I can't remember the exact messages or, like, what I said and stuff.

Unless you have a question about that, Commissioner, I'd ask that an extract of a further call be played. It's a call with session number 08401 on 7 March, 2018 at 13.55.58, between Mr Sirour and Mr Lu, and it's just pages 21 and 22.

30

THE COMMISSIONER: The audio will be marked Exhibit 63 and the transcript will be admitted to evidence and marked Exhibit 64.

#EXH-63 – AUDIO 08401

#EXH-64 – TRANSCRIPT 08401

40

MR ENGLISH: Do you have a copy of that, Commissioner?

THE COMMISSIONER: Oh, look, I'm sure I do, but if I don't I'll just follow on the screen. Thank you.

MR ENGLISH: Perhaps if that can be put on the screen, if Exhibit 64 can be put on the screen, and we can hand out copies in due course but it's only two pages and it can be played at the same time.

THE COMMISSIONER: Can you just give me the date again? Was it some date in March?

MR ENGLISH: It was 7 March, 2018.

10

AUDIO RECORDING PLAYED

[12.46pm]

MR ENGLISH: Commissioner, I should indicate that it is a 65-page transcript. There's an intention to have the balance made available to the lawyers on the portal - - -

THE COMMISSIONER: Right.

20 MR ENGLISH: - - - if anyone wishes to have access to the full transcript, but only that those two pages would be tendered.

THE COMMISSIONER: So I'll just correct it.

MR ENGLISH: No, I think you've marked it correctly. As long as it's only those two pages that form part of the exhibit, which is pages 21 and 22.

THE COMMISSIONER: That's Exhibit 64.

30 MR ENGLISH: That's right.

THE COMMISSIONER: Yes, thank you.

MR ENGLISH: So, Mr Lu, if we just go to page 21, the first page. You seem to be expressing some confidence in the abilities of Dennis Smith - - - ?---Yeah.

- - - to ensure that SIG would stay on as a subcontractor, do you agree?

---Yes.

40

Why were you so confident that he could ensure that?---Well, he's the, he's the boss, like, of the security, so - - -

So then why couldn't he decided to have another subcontractor come in to do the work?---He's good, like, good with us, so that's what I think. He's good with Emir, good with me, good with all the, all the guards there, so he, he, he will do that for us.

So SIG was safe as long as Dennis was still in the position there, is that right?---Yes. Yes.

THE COMMISSIONER: This would be relevant too, wouldn't it, that if it was the fact that Dennis had received gifts or benefits from either Emir or Tommy, the relationship had been corrupted in a way, do you agree? That is, that they now had something over him?---Yeah.

10 So as long as he stayed there on one view they'd be pretty safe?---Okay, yeah.

Do you agree with that?---Yes.

I think you'll find, Mr English, that at page 3, I know we haven't – page 4, rather – I know we haven't played this but Mr Sirour seems to be of the same view. In the first full paragraph on page 4 where he says, "I know as long as Dennis is staying there we're safe and all that stuff."

20 MR ENGLISH: I might have to wait for that to come on the screen, Commissioner.

THE COMMISSIONER: Yes. I'm sorry, I might have another one.

MR ENGLISH: I wonder if - - -

THE COMMISSIONER: Yes, don't worry about that one.

MR ENGLISH: I wonder if that's - - -

30 THE COMMISSIONER: That's an earlier one.

MR ENGLISH: No, I think that might be Exhibit 55.

THE COMMISSIONER: Oh, sorry. You're dead right. Yes. Thank you.

MR ENGLISH: Now, who at the university did you see Mr Smith interact with most, that's from the SNP staff?---Emir. Emir.

40 What can you tell the Commission about the relationship you observed between Mr Smith and Emir?---It feel like, like his extra son or something and like very - - -

So they seemed close did they?---Yeah, yes.

When you say an extra son, did you form the impression that Mr Smith was fond of Emir?---Sorry, what's that?

Was fond of Emir?---No, what's fond?

Well, he liked him?---Yeah, yeah.

And that Emir liked Mr Smith?---Yes.

Did they spend a lot of time together did you observe?---Yeah, yes.

10 They shared jokes or something? I mean I'm just trying to understand how you formed this view that it was like a, Dennis was like a son to Emir or like a father.---Well, we talk a lot and, you know, everything is just for Emir, you know, get him to do everything. You know, the jobs and stuff like that. And you can just tell like if the guy's close to you or, yeah, and they message each other a lot and stuff like that.

So Mr Smith would give tasks directly to Emir to fulfil would he?---Yeah.

And what about Mr McCreadie, what were your observations of Mr Smith and Mr McCreadie?

20 THE COMMISSIONER: Their relationship?

MR ENGLISH: Yes, their relationship, yes. Thank you, Commissioner. ---Not much from, not much from work, like when I'm at work I see no because Daryl sits far in, like a few, a few tables down so it seems like they don't talk that, that much.

30 I'll just ask if Exhibit 46 which is marked volume 13, page 237 can be brought on the screen, please. Mr Lu, this is a document from SNP showing that you were on annual leave from 21 December, 2016, if we go over to the next page up the top, through to 6 January, 2017.---Oh, yeah, yeah.

And do you know whether it was common for you to be paid by SNP during periods when you took annual leave for, sorry, by SIG when you took periods of annual leave at SNP?---Yeah. Yeah.

You'd still be paid?---Yes.

What, you'd still get your weekly payment?---Yeah.

40 And what about also payment for guarding?---Oh, if, yeah, because if, if I ask them, I still get, I still go the roster back then, but then, then if I, I find out someone didn't come or didn't even, like, I don't know, but I don't know, who came or who called in sick and stuff like that, but then I think back then George told me that he had someone off, that they had two or something, someone off, and it was with Ben. Ben's been taking it all this time. Like, I didn't even know because I was overseas. And then so I thought maybe he can give me some.

THE COMMISSIONER: Taking what? Taking the money?---Yeah.

MR ENGLISH: In this period from 21 December, 2016 to 6 January, 2017, do you recall whether you went away from Sydney?---Yeah, I went to China.

10 If we can just go to page 239, please. Can you see here at entry number 51 – sorry, if we can start at the top of the page, you’ll see the period. So this is the SIG payment schedule for that period, 19 December to 25 December, 2016. It suggests, as you just said, that you received your weekly payment, your \$300 payment.---Yeah, yeah.

That’d be right, wouldn’t it?---Yes.

Then if we go to page 260, please. You can see this is another SIG schedule for 26 December to 1 January, 2017. See that?---Yeah.

20 And if we go to line 51 again, you can see this time that you’ve been paid your weekly 300 plus it says you’ve been paid for 18 hours at \$21. Do you see that?---Yes.

Do you know what tasks that would have been in respect of? Have you got any idea?---Yes. Someone maybe didn’t come and, and, yes, and I just took it because I found out and I shared it with this team leader, I think.

If we go to page 286. Now, this is from 2 January to 8 January, 2017. So you were on leave up until the 6th.---Yeah.

30 I’ll just remind you, then you had the Saturday, sorry, you were working as a team leader on the 7th and you were working as a team leader on the 8th according to the SNP roster. And here at item 51 you’ve been paid for 89 hours at \$21 plus your 300, and you received \$2,169. You see that?---Yeah. Yeah.

Now, when, if at all, would you have performed those 89 hours of work for which you’ve been paid it would seem?---No, I wouldn’t, no.

40 Didn’t do them?---No. I, this one, like, this one I, I, I can’t, I can’t remember but I know I took some money while I was overseas. But it wasn’t too much, comparing.

If Exhibit 1D, page 4, can be brought on the screen, please. This is a summary of those spreadsheets, those SIG spreadsheets that you just were looking at, you know the colourful one?---Yeah.

It shows how much SIG paid you.---Yeah.

And so it's only a record of what SIG claims to have paid you, just so you're aware.---Yeah, yeah.

But if you see from 6 December, 2015, and if we can go over to the last page, please, it identifies a total amount of \$281,547, and that's up until 15 April, 2018.---Yeah.

And I should say that figure includes your commission amount and the payments for shifts.---Yeah. Yeah.

10

Would you accept, and I'm not asking you to verify whether it's accurate or not, but do you accept that that's a figure you might have received by way of payment from SIG?---Well, it's, look, almost, it's been, like, that's for, like, nearly three years or two years. The exact, the exact amount, I thought, I thought would be less than that but that's how much you calculated, because I never added up, I could never calculated how much I, you know, got from them.

20

Fair enough. If that can be taken off the screen and if Exhibit 47 can be provided to the witness, please, in hard copy and if volume 1A, page 114 can be brought on the screen, please. Now, if that can just be zoomed in a bit, please and perhaps if you start at the top. This is a schedule of transactions, your transactions with the TAB. You said you were a gambler before?---Yep.

If we look at – just please excuse me for one moment. We might have to do this after lunch, I apologise, Commissioner.

30

THE COMMISSIONER: That's all right.

MR ENGLISH: I'm missing a folder. Yes. I apologise. I'm getting close to finishing Mr Lu.

THE COMMISSIONER: Can I just have some indication from others present as to how long they think they'll be?

MR COLEMAN: 10 minutes, maybe 15.

40

THE COMMISSIONER: Thank you.

MR BENDER: Less than that.

THE COMMISSIONER: Thank you.

MR O'BRIEN: About that.

THE COMMISSIONER: About that, right.

MR C. WATSON: Probably not at all.

THE COMMISSIONER: We're doing well.

MALE SPEAKER: About the same.

THE COMMISSIONER: Thank you. Well, there's some prospect we'll finish with this witness this afternoon.

10 MR ENGLISH: I hope so.

THE COMMISSIONER: Yes.

MR ENGLISH: Commissioner, just before we adjourn, the compulsory examination transcripts for Mr McCreadie are available. Might they be distributed, at least, now and I might leave with you whether to consider vacating the 112 order that formally applied to those transcripts when we come back in.

20 THE COMMISSIONER: Yes, thank you. We'll adjourn.

LUNCHEON ADJOURNMENT

[1.02pm]