

GERDAPUB00415  
18/02/2019

GERDA  
pp 00415-00468

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INDEPENDENT COMMISSION AGAINST CORRUPTION

STEPHEN RUSHTON SC  
COMMISSIONER

PUBLIC HEARING

OPERATION GERDA

Reference: Operation E17/0445

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 18 FEBRUARY, 2019

AT 10.00AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: Mr English, I think we're getting just a little bit behind. We're getting just a little bit behind so what I'm proposing to do is start at 9.30 tomorrow morning. We'll see where we are at 4 o'clock each afternoon. If necessary we'll sit till 4.30.

MR ENGLISH: Yes, Commissioner.

MR COLEMAN: Yes.

10 THE COMMISSIONER: I think we've got something from Mr Coleman.

MR COLEMAN: Yes. Can I remind you on Friday I indicated that there was an issue with respect to a production of documents. The review is ongoing. I can tell you though, Commissioner, that my solicitors through a review of the material have identified something over 6,000 documents which will be produced to the Commission today, emails and attachments. Now, I don't know what's in them and I don't know whether the Commission has them from other sources, but as I understand it my  
20 solicitors are exporting those documents now and there's been a brief discussion between respective solicitors and they'll be produced this morning, as soon as possible today. The remainder of the review will be completed by Wednesday.

THE COMMISSIONER: Are they documents that you say should have been produced in response to the notices that were issued?

MR COLEMAN: Yes.

30 THE COMMISSIONER: That really is unfortunate.

MR COLEMAN: It is. There's nothing I can say or do, do about that.

THE COMMISSIONER: Oh, look, I'm not being critical of you at all and I understand you came into the matter later, as did, as I understand it, Corrs Chambers Westgarth.

MR COLEMAN: Right, yes.

40 THE COMMISSIONER: But is there any explanation from your client as to how that could possibly happen?

MR COLEMAN: I will seek one and I will get a detailed one and I'll give you that explanation when I have it.

THE COMMISSIONER: Okay, thank you.

MR COLEMAN: I will seek to do that by sometime today.

THE COMMISSIONER: Take your time.

MR COLEMAN: No, no, I mean obviously it's, it's a difficult position. As I say, I don't know what is in them, I don't know whether the Commission has them from other recipients or senders of the relevant emails. That's no, that's no response of course, but that's the position we find ourselves in and we're doing our best.

10 THE COMMISSIONER: What's proposed, are they going to be produced in hard copy or - - -

MR COLEMAN: No, I think they're going to be produced electronically on a thingo, USB.

THE COMMISSIONER: Are they in a format, do you know, that can be searched?

MR COLEMAN: Yes.

20 THE COMMISSIONER: They are, are they. Okay. That's helpful.

MR COLEMAN: I think that's so because that's how my solicitors have been able to say that these are documents which we haven't got through the Commission's bundles or whatever, through the website.

THE COMMISSIONER: Okay. All right. Thank you for that.

MR COLEMAN: Thank you.

30 MR ENGLISH: Mr McCreadie can come back to the witness box, please, Commissioner.

THE COMMISSIONER: Yes.

MR ENGLISH: And while he's doing that, if Exhibit 67, page - - -

THE COMMISSIONER: I'll just have him re-sworn though, if you don't mind.

40 MR ENGLISH: I'm sorry.

THE COMMISSIONER: Take a seat.

MR C. WATSON: I take it the declaration, Your Honour, I mean Commissioner, continues?

10 THE COMMISSIONER: The declaration that I made last week pursuant to section 38 of the Act will continue.

**COMMISSIONER'S DECLARATION CONTINUES PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT**

MR C. WATSON: Thank you.

20 MR ENGLISH: Thank you, Commissioner. If Exhibit 67, page 385 can be brought on the screen. Do you remember I was asking you some questions about this document late on Friday afternoon, Mr McCreadie?---Yes.

And you raised a query about the debits and I said to you I wasn't able to assist in that way. I can now. If you see on page 385 there's some debits starting on 4 January, going down the page and coming to the total of \$6,727.46?---Yes.

30 If we go to the next page you can see that this is Mr Balicevac's, a summary of Mr Balicevac's transactions with respect to line-marking activities, and you can see from 4 January, 5 January, 9 February, 12 April and 13 April there's a series of credits identified to reflect funds going into his account. Do you see that?---Yes.

40 And I'll just ask you to accept from me that those five amounts are the same as those five amounts that we saw on page 385 that were debits to your account. Does that correlate with your understanding that in relation to the line-marking activities once you were subcontracting directly to SNP, you would be paid and then you would pay any amounts deemed owing to Mr Balicevac yourself?---Yes, that's correct.

I was asking you some questions on Friday about the possibility of you and Mr Balicevac obtaining internal positions with the university. Do you remember that?---Yes.

And the transcript page 360, line 34, you said it was probably the case that you discussed with Mr Balicevac the possibility of applying for roles

directly with the university and how that could benefit SIG. Do you remember that?---Yes.

Did you ever discuss with Mr Smith in the context of the possibility of you and Mr Balicevac obtaining an internal position at the university, how that could benefit SIG?---No.

10 You gave some evidence yesterday in relation to the possibility of SIG tendering directly for guarding services at Sydney University. Do you recall that?---Yes.

And you gave some evidence that you discussed that possibility with Mr Smith.---Yes.

Did you ever discuss with Mr Smith the issue that SIG might have a conflict tendered in its own name for that work?---Yes.

20 Can you tell the Commission about the discussion you had with Mr Smith along those lines?---Yes, certainly. Tommy kept pushing to be able to approach the university and have work directly under his SIG company and I'd warned him that, you know, the second he went and tried to, you know, take on work from SNP that they would remove any other work that they gave him. So what I'd flagged with Dennis is that Tommy would probably, if, you know, he was able to put forward a quote for services he'd put it under a different business name.

30 THE COMMISSIONER: What did Mr Smith say?---He, he didn't really say, he didn't really say much. It was sort of a shrug of the shoulders and, you know, see what happens. Like, there was nothing, nothing ever guaranteed.

But did he say they shouldn't bother or did he say I'll look at it when I see it? Did he say anything at all apart from shrugging his shoulders?---I think it was more of, I think it was more of an indication of, you know, see what happens. Nothing, nothing like, oh, that's good, you know, make it happen, nothing like that, it was a sort of more, oh, well, you know, if that's what he wants to try and do, then you know, so be it.

40 Okay. Thank you.

MR ENGLISH: Well, did he show any concern that if Tommy was to tender for this work it might create other legal issues that would affect Tommy?---I didn't get any indication from Dennis that, that he was concerned about that.

And did you ever discuss with Mr Smith the possibility that if Tommy was to tender for that work, any company through which he sought to make an

application for tender might not have to be outwardly linked to him?  
---What, distant from, distant from Tommy?

Yes, that Tommy would have to place some distance between him and the company that might tender. Did you ever discuss that with Mr Smith?---Not in great detail but I had mentioned that it would be, you know, he'd obviously try and use a master licence that was, you know, not really directly linked back to SIG.

10 Well, that would still mean that Mr Sirour would be an associate of the master licence, wouldn't he?---I don't know if he would be an associate. From what I recollect the master licence he was proposing to use was in a, under a different person's name.

A person or a company?---It was a, it was a company called Triton but the, the, the master licence-holder was, was either Ramy, Ramy or Pat, I can't, I can't remember exactly who, but it, it, Tommy's, as far as I can remember Tommy's name didn't appear anywhere on any documentation that I saw.

20 And is your evidence that Mr Smith didn't seem too concerned by the possibility of Tommy tendering through that mechanism for this potential work?---He gave no indication that he was concerned.

Well, did he do more than that? Did he give an indication that he was happy to receive a tender on that basis from such a company or master licence-holder?---Well, I think they would have had to have gone out to the market to invite a few different companies to tender for the work.

30 Yes. Well, that's not an answer quite to the question I asked. Did he give an indication to you that he would be happy to receive a tender from a company on the basis that you've just discussed?---He, he seemed okay with it.

Can Exhibit 36, page 286, please be brought on the screen. This is an email chain concerning breach of fatigue at Sydney University involving a particular guard. Do you see that?---Yes.

40 If you can just go over the page, please, you can see there's an email from Mr Giardini to a number of people, including yourself, raising the concern and then a response comes, we'll just go up the page, from roster@sinternationalgroup.com, signed by Frank. That's Mr Lu, isn't it?  
---Yes.

If you just look at Mr Lu's email, the third paragraph, second sentence. "On the 14<sup>th</sup> 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." Does that suggest to your understanding that there were bus runs taking place, I believe this is at the Camden Campus, by guards driving the bus

who had worked in breach of fatigue limits?---I didn't see too much of the Camden bus roster. The, the four guards that worked at Camden Campus worked out that roster amongst themselves and with Lynn from SIG.

THE COMMISSIONER: I don't think that's an answer to the question, though, I think - - -

10 THE WITNESS: No. I was just going to get to saying that by the sounds of things there was someone else supposed to drive, to drive that day and they've resorted to having to use Ihab to, to cover it.

MR ENGLISH: And that's in the context of Ihab breaching fatigue limit requirements, is it not?---Yes.

20 Was it something that, putting this email to one side, you were aware of, that is guards doing bus runs while they had performed or were performing shifts in excess of fatigue limit requirements?---I didn't know anything about Camden. I knew the, I knew the guys would do their standard roster there two days, two nights, and then on their four days off they would pick up like the morning run or the afternoon run as additional work, but in terms of when it came to light that, you know, someone had worked a number of shifts in a row, I think the two people that got flagged were, were Marisol and Ihab, and that was sort of the first time I was fully aware of how many shifts they were working in a row.

If we can go to page 305, please. So here's another email about breach of fatigue, and this is Marisol. I think is that who you mentioned before? ---Yes.

30 Just go over the page to 306, you'll see again there's a query raised, another breach of fatigue, this time 15 consecutive shifts, and if we go to page 305 you see in Frank's email, "Hi, Dom," do you see that on 5 April?---Yes.

It seems to be linked to bus runs again. Do you see that in the first sentence?---Yes.

40 Is that your understanding, that these breaches of fatigues did have a connection with bus runs occurring, is this again at Camden?---Yes, that's at Camden.

But is that your understanding, that these fatigue breaches were linked to bus runs?---Yes.

You said, just remind me, someone was preparing the rosters in connection with Lynn. Who was that for Camden?---I think all the guards would, I don't know if they collectively put down on paper what each person was willing to cover or whether they just rang the office direct, so I don't know

if they went through one person to talk to SIG or whether they, they each individually just picked up the phone and talked to Lynn.

So for example, Ihab and Marisol, are they SNP or SIG employees?  
---SIG.

10 This wasn't ad hoc work, bus runs, was it?---A bit of both. The, the original contract had I think a four-hour run in the morning and a, and a five or a five-and-a-half-hour run in the afternoon and then there was an extension brought in, the faculties out at Camden wanted weekends, public holidays and semester shutdowns.

So I'm just trying to understand whether SNP had any responsibility for arranging the rosters for those bus runs at Camden.---No, they never, they never had input, it was more that they were advised who covered.

20 Can you explain why that was the case, given your evidence that at least part of the runs were covered under the contract rather than ad hoc requests?  
---The, what it was, the, when, when the contract was signed up, when the contract was signed up the, the standard hours, the morning run and the, and the evening run were, were loaded into the Microster system, just as standard shifts covered under the lump-sum contract and again the guards would cover those shifts and communicate it to SIG, they wouldn't call it through to SNP head office, they'd just, at the end of the week they'd put their time sheets in and send it through to SNP rosters to update the system. The additional, the additional component to the bus runs, the weekends and the out of semester arrangements, from memory I think they appeared on the, on the ad hoc invoicing as a, as a Camden bus extension.

30 And it seems like at Camden these employees weren't using ghost names, they were signing in under their own names for consecutive shifts. Is that right?---Yes.

Do you know why or do you have any knowledge why it was done in that way rather than using a ghost name for Camden?---I think it's remote, it's a remote location compared to the city campuses. That's all I can think of.

40 And are you aware of these fatigue breaches occurring in respect of Camden prior to 23 March, 2018, or these consecutive shifts I should say, occurring at Camden?---I can't, I can't recall being, being made aware prior to those two emails advising that there was a fatigue breach.

I want to ask you some questions about a report the university had KPMG provide in relation to security services at the university. Do you know what I'm talking about?---Yes.

That was in around July 2016, was it not?---Yes.

What role if any did you have in assisting or facilitating the preparation of that report?---The KPMG auditors would, would come into the university and just ask to see documents and ask questions.

Okay. You were interviewed as part of KPMG's review, were you not?  
---Yes.

Were you, you mentioned documents. You were asked to provide documents to KPMG, were you?---Yes.

10

What about arranging for the interview of other guards by KPMG staff? Were you involved in that process?---Yes, at first. I never received a full scope from the university as to what they wanted to do or who they wanted to talk to and they approached, they approached one of our direct employees, I think it might have been Greg Charlesworth, and they, they'd asked him some questions about rates of pay or something or his roster, and he indicated that he just didn't want to talk to them, and I'd asked the university, you know, are these guys approaching, you know, the guards without, you know, letting us know what's going on, like we were sort of left in the dark.

20

Did you have – and I'm not suggesting you did, but did you have any responsibility in terms of defining the scope of that report?---No.

Do you know who was responsible for determining the scope of that report?  
---No.

Did you receive a copy of that report when it was completed?---I don't think so.

30

Have you ever seen a copy of the report?---Not that I can recall, no.

THE COMMISSIONER: Did it concern you though that KPMG wanted to speak to guards?---Like I say, a couple of the guards felt that it was intimidating or - - -

40

Well, you must have been concerned if you had an auditor looking at the way the guards were operating, that it might expose you to some difficulties?---Look, that did cross the back of my mind. But at the same time, when I sort of queried Morgan Andrews about, you know, what, what was the go with, with the audit, apparently there was, before the KPMG team were due to come in there was some information that was supposed to have been sent across to SNP that we didn't get. So, so I just said, "Look, you know, if they want to talk to anyone, just, I'll let them know, if they just let me know when they come in and I can pull the guard off patrol and they can interview the guard or whoever it was they wanted to talk to."

As I understood your evidence, was it Charlesworth, Mr Charlesworth?  
---Yes.

One of the things that he conveyed to you was that KPMG wanted to look at his time sheets. Correct?---Yes.

10 It must have been of concern to you if that was in fact the case, that is that KPMG wanted to look at guards' time sheets. Do you agree?---Yeah. I know they had a look at the time sheets 'cause I understand they also spent some time back at SNP head office looking at the Microster system and the, and they pay system that we used.

Right.

MR ENGLISH: You said you haven't seen the report. Are you aware of what the observations or recommendations were that came out of that report?---No, not entirely.

20 THE COMMISSIONER: When you say not entirely what do you mean?  
---I can't, I can't remember where the feedback came from, whether it was from Dennis or from Morgan, but I think there was just some, just some feedback on, on some WHS documentation needed to be a little bit better, so you know, things like records of inductions and, you know, a copy of the, the roster should be put up somewhere on a noticeboard in advance, you know, rather than just, you know, the guards turning up.

30 MR ENGLISH: Were you ever told that KPMG identified as a significant issue that practices exist to circumvent payment of overtime allowances to SNP staff, resulting in non-compliance to the EBA, enterprise bargaining agreement?---I didn't know that they had, they had flagged that.

Well, did you understand in light of that evidence that any action was taken by anyone at the university as a consequence of this report?---I'm not aware of anyone at the university wanting to enforce anything from the report or wanting to change, to change anything. I think the mood was more a case of, you know, KPMG have come in, they've, they've done their report or whatever and they're gone.

40 All right. So was it discussed, the report, at a management meeting involving you and anyone from the university?---Not that, not that I remember, no.

So you just said it was more the case that KPMG did the report and now they're gone.---Yes. I think to, to explain that, I think the report, the auditors had been in for a few weeks and I think maybe Morgan or Dennis or someone else in the, in the office had, you know, turned around and said, "Oh, well, you know, thank goodness they're finished," or, "Thank God they're gone now."

I don't mean to be flippant, but it sounds like some relief that the report's over and an intention to do nothing with it. Was that what you picked up from the university?

MR BENDER: I object. The question really should be a bit more precise.

MR ENGLISH: Well, you just, you gave some evidence from Mr Andrews, Morgan Andrews.---Yes.

10

Did you understand him to be relieved that the KPMG audit process had concluded?---I think he was, I think he saw the, the audit process, and I mean I can't put words into his mouth, but I, my observation was that he was just like, oh, they're come in, they've done their audit, you know, it's another, another thing done, we'll just, you know, get on with business.

20

But wasn't there business to come out of that report or was it just never raised with you that there might have been business to come out of that report that needed implementation?---I can't recall the university coming or approaching myself or anyone from SNP to say, you know, as a result of this report we now want you to implement, you know, X, Y, Z.

You're aware that some issues were raised with respect to an allegation that you didn't provide payroll data forthwith for the purposes of that review by KPMG?---Yes.

And you're aware that there was also a suggestion that you may have impeded KPMG in its desire to interview staff?---I didn't impede them.

30

I'm just saying that there was a suggestion that you may have done that. I'm not saying that you did or you didn't.---Yeah.

But are you aware that there was a suggestion that you may have done that? ---I think one of the auditors was a bit upset because I couldn't provide them copies of pay slips or, or access to SNP payroll. But again, that was, that was something when they brought it up on-site I didn't have a proper scope or understanding of exactly what it was they wanted to look at, so I had to put them in touch with SNP head office to get access to that data.

40

If Exhibit 36, page 5, can be brought on the screen, please. If you just start at the email at the bottom of the page, which is from Ryan Sierra to Morgan Andrews, Steve Sullivan, Kevin Duffy and Tony Fisher. Are those persons, aside from Mr Sierra, all University of Sydney employees?---Ah - - -

I'm not suggesting they are. I don't know.---Look, I don't know who, I don't know exactly who Tony Fisher is but Morgan Andrews, Steve Sullivan and Kevin Duffy, Kevin Duffy are university employees or were.

We can see the email, “Morgan, I have received an email from KPMG, who are conducting the audit as instructed. They’re finding this very difficult without the information requested. The major issues are around the payroll data, monthly KPI reporting and site visits.” And they go on to talk about the request for the payroll data, which was outstanding for three months. Sorry, I withdraw that. “The payroll data requested for three months has been pending for more than four weeks now.” You see that?---Yes.

10 And then they go, if we go over the page, so the following is an extract from KPMG and it sets out those requests for payroll data. Do you see that?  
---Yes.

So from 27 April, 2016 to 10 June, 2016, the payroll data was still pending.  
---Yes.

20 Do you have an explanation as to why there was that delay in providing that payroll information?---I’m not sure that, like I said, you know, I had no access into, into the roster or, or anything to do with the payroll, and I’d put them in touch with, I think I put them in touch with Bill Mason and I can’t remember if I put them in touch with Linda Willard or, or someone else from the pay office.

Well, it seems from the writing in blue that you noted that payroll had to come from SNP and the payroll team, but you seemed to suggest that you’d be the person who was going to collect that and provide it to KPMG. Do you accept that?---Look, I don’t think, I honestly don’t think that SNP payroll would have released, look, I could be wrong but I don’t think they would have ever released a whole heap of payroll information to me.

30 Well, if you look at 11 May, 2016, you’re reported as saying, “There have been a few protests happening within the university’s campus which kept me busy, but I’ll be collecting the documents and send them to us soon.” Do you see that?---Yes.

That’s not suggesting that SNP didn’t want to release the documents to you, do you agree?---Again, the auditors kept asking me for, for, for payroll stuff and I was just like, “Guys, just go out to the office and ask to have a look at it.”

40 Well, look at what you say at 1 June. “The office called me back. They will try and have the payroll report for the first pay period in January 2016 to end of March 2016 compiled for me on Friday so I can send across.” Do you see that?---Yes.

So it doesn’t seem like you’re sending them out there. You’re being the gatekeeper here. Do you accept that?---I’m not being the gatekeeper. You know, if SNP payroll take their time in, in sending me or not sending me the information, there’s nothing I can do about it.

So you weren't trying to slow up the provision of this information to the auditors?---No. No, at one stage Morgan had said, look, just whatever information they want, just give it to them so they can get in and get their job done and they're out.

And this request for monthly KPI reports, you said, "I've asked Dennis Smith for them." Do you see that's reported as to what you said?---Yes.

10 Were those reports provided to KPMG?---I believe they would have been.

But you gave some evidence about a lack of – I mean, what is a KPI report? You spoke on Friday of there might not being an underlying report in respect of at least KPIs five and six for most of the period. What were the KPI reports that you understood were going to be provided to KPMG?

---The, the KPI scores were, were recorded on, on, I think it was a document that was two A3 pages for all the, all the different aspects of the services, so guarding, line marking, electronics and cash collection. There may have been, we may have been a month behind in compiling those reports, but  
20 when I say "we" I'm saying myself as SNP and Dennis as Sydney University. But we kept, once we did a KPI review, we kept all the KPI reports in a folder just on the, on the bookshelf.

And you gave some evidence on Friday, at least in respect of KPIs five and six, that it was just assumed that the KPIs were being met. Do you recall that?---Yes.

Were assumptions like that then repeated in the KPI report that was handed over to KPMG?---Most likely.  
30

It goes on to talk about a site visit on page 6. If you just want to read that to yourself. Have you read that?---Yes.

Do you see in the first paragraph, second-last sentence, it's suggested that you asked what questions KPI [sic] would be asking I think of guards, and there's a suggestion that that defeats the purpose of the interview. Do you see that?---Yes, I can see that.

Did you request that information?---Yeah, I did, I did ask them, you know, what sort of, what sort of questions they'd be asking the guards.  
40

Why did you ask for that information?---Just in case one of the guards rang me and complained and I could say, well, no, they told me that they were going to ask you that, so you can go ahead and answer.

You didn't want to satisfy yourself as to the question so you could determine whether some of your own misconduct may or may not be inquired into?---I felt that if there was something there that I would be

answerable to, then, you know, I wouldn't be able to stop them with their line of questioning.

It's suggested in the second paragraph that you deployed what's called a restrictive measure. Amyna, that's Ms Huda, isn't it?---Yes.

So, "Amyna controlled who KPMG spoke to, if any. She left and then radioed everyone in another room so KPMG have no idea what she said and how workers responded or if she definitely sent the message out or not.  
10 According to Amyna, Daryl instructed the team not to provide us with any documents." That last sentence, is that true?---Look, I believe so. If that was, if that was an after-hours visit, 'cause I think with KPMG I think one of the auditors said, look, we'll tell you in advance, like, what day we're going to come in and speak to the guards just so that you can, you know, let them know that we'll be on-site and to, and to assist us. Someone had turned up and had just started asking questions and Amyna, she didn't know what to do, I didn't know what to do, so I just said, look, we'll sort it out, you know, the next day. You know, I'll talk to KPMG and, and find out what it is they want.

20

But so did you instruct the team not to provide KPMG with any documents?---I don't know if I instructed them not to provide any documents, it may have just been – I don't know what documents they would have asked from a, from one of the security guards on shift.

Well, it's not really suggesting such knowledge, it's suggesting that Amyna said that you had instructed the team not to provide KPMG with any documents. Now, did you provide such an instruction to the team?---I probably would have given that instruction to Amyna just to, take that  
30 responsibility away from her.

What do you mean to take it away from her? If you're giving her that instruction, aren't you requiring her to then instruct the team not to provide any documents to KPMG?---I think it was more in the, in the line of, you know, tell, tell the auditor, you know, they can talk to the guys but, you know, as for what documents they're expecting the guys to hand over whilst they're on shift, I've got no idea.

40 THE COMMISSIONER: You mentioned a moment ago that it was your intention to call KPMG the next day and sort it out. Did you do that? ---I believe the auditors were on-site most days and around, around this issue I don't know which one I would have spoken to, there were three or four different auditors.

But did you speak to them?---Yes, I did speak to them and I just said, "Look, we just want an understanding of, you know, what it is you want to talk to the guards about and just let us know so that we can tell the guys to cooperate."

Well, this email from Mr Sierra very much suggests that that didn't happen. Do you agree?---Look, I agree that's what he's suggesting but I don't know, compared to what happened or what didn't happen, what was in the report or not in the report.

10 MR ENGLISH: Were you given any instructions to impede this review?  
---No, quite, quite the opposite. I think, like I say, when KPMG came in we didn't have a lot of advance notice about it, it was kind of like, oh, by the way, KPMG are coming out to audit the security department, I should have told you, you know, a few weeks ago, but oh, you know, this is what it is. And then once they started to conduct the review there was a push to just wind it up quickly.

20 When you were told that KPMG's coming out to conduct a review of security services, you must have been quite concerned that they would have discovered the time sheet fraud.---No, I wasn't, I wasn't concerned, I was more, I didn't know exactly what the scope was, I didn't know who they were, exactly what it is that they were there to do.

But why do you need to know that? Doesn't the university just tell you that they're conducting a review and you've got to cooperate?---They didn't really say it like that.

30 Well, it seems that you've decided you need to know these factors before you're willing to assist in the review. Is that a fair reflection of your evidence?---I, I didn't want to refuse to cooperate with KPMG, I just wanted to know, you know, who they were, what they were doing, what, you know, what is it they're wanting to look at.

And do you accept that that was a, that reflected a concern on your behalf that their review could shed light on the misconduct that was going on at the Campus Security Unit?---Look, I was concerned that, you know, there could be something there that could look bad for us all.

40 And you wanted to take active steps to prevent that occurring, would you agree?---I didn't want to take active steps to prevent it from occurring, you know, if they found something there would be, there would be nothing that I could do, nothing that I could say to anybody to prevent, you know, whatever it is they found or whatever recommendations that they would make.

THE COMMISSIONER: But they'd only find it if they were permitted to find it. Do you agree?---It's not a, it's not a case of me not permitting them in, like I didn't stand in front of a door and say, no, you can't go in there, or, you know, no, you can't have that, it was, you know, more, you know, in other, other areas where I'd been audited, like a, say for example like a Work Health and Safety audit, the auditors would send out a, just like a

sheet detailing, you know, can you have these documents ready so that when we come in we can just review them. I thought, you know, we might have had something like that from KPMG so that, you know, it would assist the process rather than, you know, me looking as if I'm trying to stop them and deny them access into, into SNP or to the university.

Do you agree that this email suggests that you were impeding the audit?  
---Certainly the, the, the picture painted would, would appear that way.

- 10 What do you say to the suggestion that you in fact did that and the reason you did it was to endeavour to ensure that what you had been doing on-site and what others had been doing on-site – that is, time sheet fraud – would not be exposed?---Again I think that, you know, when, when KPMG had come in I don't think, I don't think the ghosting of shifts would have been as bad or as ridiculous as it got to.

Very well.

- 20 MR ENGLISH: I just want to give you the opportunity, just focussing on the second paragraph, just about halfway down it says, "When Daryl was contacted during our visit he did not ask the on-site team to help us, but instead he and Amyna agreed on a restrictive measure. Amyna controlled who KPMG spoke to, if any, (she left and then radioed everyone in another room so KPMG have no idea what she said, how workers responded or if she definitely sent the message out.) According to Amyna, Daryl instructed the team not to provide us with any documents." Do you take any issue with the accuracy of that part of the paragraph I just read to you?---Part, part of the issue is that - - -

- 30 THE COMMISSIONER: No, that's not the question. Ask it again, Mr English.

MR ENGLISH: Do you take any issue with the accuracy of that part of the paragraph I just read to you?---Yes, to my, to my recollection.

- 40 Okay. In what respect does your recollection differ from what's recorded in that part of the paragraph?---I don't know that Amyna, I don't know that Amyna controlled who KPMG spoke to. I definitely don't know if, you know, she's turned and said, no, you can't speak to that guard, or you can only speak to this person. I don't know how that was handled on-site.

Well, do you accept that Amyna acted as a buffer between KPMG and those guards that were available to be interviewed?---Look, it certainly, it certainly looks that way, but I wouldn't have known who was on shift, I mean I would have had an understanding that it was Amyna's team, but in terms of, in terms of her, you know, instructing, you know, this guard not to speak to KPMG or this person not to speak to KPMG, I, I can't recall any of that.

Well, she performed that function, did she not, on your instruction?---I'm, I'm guessing she did.

Now, a decision was made in I think April 2018 for SNP to cut ties with SIG at the university. Do you recall that?---Yes.

Now, the services of Dennis Smith were requested and employed to ensure that didn't occur. Do you recall?---Yes.

10

And how was it that Mr Smith, if I can say, went in to bat for SIG on that occasion?---I can't give exact dates but obviously SNP head office had made the decision that they were wanting to change supplier and the initial time frame that they'd spoken about was like a, like a seven-day turnaround, and I'd flagged with my manager, Phil Tansey, and Fawad Walizada and I think, I'm pretty sure Domenic Giardini was in the meeting as well, that if they, you know, I said, well, what if SIG guards didn't want to go across to your new supplier? You know, we would have to train a lot of new staff and that would take more than seven days to do inductions, get their access cards and, and finish off their, their site training. I said to them, you know, we'd need at least, you know, two to four weeks to achieve that.

20

Well, I asked you how was it that Dennis Smith went in to bat for SIG. You haven't really answered the question, with respect, there.---Sorry, to get on to that, I said to Dennis, I flagged with him that obviously if we're looking to change supplier, we would have had to have flagged it with the university. So I flagged it with him and just said, look, SNP's trying to get rid of Tommy. I don't know if all of Tommy's guards are going to stay. Tommy would always threaten that if someone tried to take his business that he would walk all the guards off-site, he'd remove everybody.

30

And what did Mr Smith say? Is that something that you say you raised directly, that threat of Tommy's, with Mr Smith?---I can't remember if I raised that threat with Dennis Smith. I, I'm sort of leaning towards that I wouldn't have raised that threat with Dennis, I didn't want him to, you know, I guess, for want of a better term, I didn't, I wouldn't want him to freak out and think, you know, crap, you know, this is really going to go bad. I just wanted to flag it with him that, yeah, it's a concern because at that stage, I, I wouldn't be able to answer if the guards would sign across to a new supplier.

40

Did you not see this as an opportunity that you might be able to get rid of SIG, who was, pursuant to your evidence on Friday, compromising you and you could have a fresh start at the university?---I felt by that stage that I was probably in a, in a no-win situation. I'd rung other people, you know, other people that I'd worked with in years gone by, because I didn't know who this new supplier was that SNP were putting forward. Part of what concerned me was one person had told me they're not the kind of people

that you want to do any business with or have any association with. Another person had said, look, they're, they're dodgy, I've heard that the owner is very generous, in inverted commas, and I just didn't know who these people were. I was, I was more concerned with the comment, you don't want to do business with these people. They're, they're not, it, it was implying that they weren't of good character and, you know, I was quite, quite concerned about that.

10 But on the other hand, you've got Tommy who's corrupted you with cash payments for a number of years, correct?---Yes.

You think is making implied threats to you that if you don't continue to work in his interests, he'll let SNP know about what you'd been doing, correct?---Yes.

You essentially said on Friday you thought you were being blackmailed by Tommy, do you accept that?---Yes, I accept that.

20 So why are you concerned about some other operator coming in when the devil you currently know is blackmailing you, on your evidence?---Well, I felt that if, my, one of my fears was that if Tommy, you know, pulled through with his threat, he'd pull all the guards you of the university and out of other sites run by SNP and that would expose me anyway, and then on the flipside I'm worried about, you know, comments that I was hearing about this other supplier and, you know, what if the, what if the guys don't sign across. I'm sort of, I'm in a no-win situation.

30 Why would you be exposed if a decision's made at SNP to have Tommy removed from all sites? How could that be linked back to you? It's not your decision.---Not my decision but I was, I was worried that if he, if he pulled all services out of the, all guards out of the university, you know, I was, I was worried, you know, obviously that'd, that's lead to me losing my job.

40 Why would that lead to you losing your job? I don't quite follow that. Can you explain, please?---Well, if all of a sudden, all the guards turn around and say we're not coming in, you know, I, I felt that SNP would have looked at me and said, right that, it's your, your responsibility or it's your job to, to make sure you, you get everyone back.

THE COMMISSIONER: I don't follow that either. I mean, SNP took the decision to terminate the contract. It must have been, well, one assumes that it would have been on the cards or they would have believed it was on the cards that they had to start afresh. You terminate a contract, the contract's over.---Yep. But we didn't have, there was not enough lead-in time from, from what they initially said that they wanted to do. There wouldn't have been any, there wouldn't have been enough lead-in time to be able to, you know, transition staff across smoothly.

Getting back to what you were asked a little while ago, what, if anything, did you understand Mr Smith's role was in seeking to maintain the SIG contract?---To delay that transition from SIG to another supplier. He'd raised concerns about some of the project work that was coming through the university. It was going to move into quite a, quite a busy phase.

Who did he raise that with, as you understood it?---Dennis raised that with either Tom directly or with Tom and Phil Tansey

10

Did he raise it via an email?---Yes.

And did you see that email?---Yes.

In what circumstances?---He sent a copy to me.

Why did he do that, as you understand it?---I think he sent that to me to just say, look, stay of execution, you know, we'll get through this busy period and see, see what the next step is.

20

MR ENGLISH: Perhaps we can go to page 317 of Exhibit 36. Down the bottom there's an email from you to Philip Tansey and Fawad Walizada on 10 April, 2018. You say, "Hi Phil. Just to confirm, I had called Dennis to advise SNP was in the process," it says "or", I think that should read "of", "re-evaluating the use of SIG as a supplier to SNP and the need to push forward with an alternative supplier. Dennis is back in the morning. He said we would discuss further." Do you see that?---Yes.

30 And then you forward that communication on to Dennis Smith saying, "Heads up, still nothing in writing from SNP to advise what it is they would like to do." Do you see that?

THE COMMISSIONER: And copied to Mr Balicevac.

MR ENGLISH: Thank you, Commissioner. And copied to Mr Balicevac. Do you see that?---Yes, I do.

40 Why do you forward that on in those circumstances?---Well, obviously I've, SNP's asked me to talk to Dennis and let him know the intention to, to change suppliers. I've sent that through to Dennis to say, look, I've, I've spoken to the office. I'm just waiting for, you know, paperwork or, you know, more information to come through before I can tell you anything else.

Why copy in Mr Balicevac?---Because he was my 2IC.

Why are you giving Dennis Smith a heads-up?---Just to let him know to probably expect some sort of correspondence from SNP.

Are you saying to your understanding Dennis Smith's interests in this regard are purely operational, that he doesn't want to see a mass walkout of guards on-site?---That would be my understanding, yes.

Go to page 234, please. Starting at the bottom of the page and over just quickly, you can see there's an email from Mr Walizada. If you just go back, it's said to be an email to Tommy and Scott. Who was Scott, do you know?---I think Scott was, was someone else that Tommy had brought into his business. I don't think I ever met him.

10

He says, "Thank you for your time over the phone. As discussed and requested, this email should serve as the official notification that SNP no longer requires the services of S International Group at the following sites." See that?---Yes.

And there's a clarification email from Mr Walizada. Then somehow that appears to have been forwarded from Mr Balicevac, although the email doesn't quite identify how it was that he received that email, and he sends it to Dennis Smith, copying you in. "They gave Tommy final date, which is 8 May." You see that?---Yes.

20

Isn't that a responsibility of yours to make a communication like that to Mr Smith?---Yes, it would have been.

And then you've said, "Scrum down later." I take it that means you're going to get together and have a chat about this, is that right?---Yes.

Did you have that chat after this email on Wednesday, 11 April, 2018? ---Probably.

30

Do you know what you talked about?---Well, it would have been the, it would have been the final decision of SNP. Again this, this email from Fawad advising that it was going to be one month's notice, I believe that would have been after my meeting with Fawad, Domenic and Phil to say that, you know, I needed more than, we would need more than a week to transition.

THE COMMISSIONER: Well, I think you told us a little while ago that you'd need about a month.---Yes. And this - - -

40

And you got a month.---And this email seems to fit in with that time frame that I suggested. So I'm saying to Dennis in that email, I'm saying, look, we need to obviously get together and, and discuss.

MR ENGLISH: Yes, but just following on what the Commissioner says, you needed a month and you had it. Why did you need to scrum down in those circumstances? Why couldn't just a new supplier come in, be retrained and then start the job afresh?---Well, again I think obviously I was

trying to, to protect Tommy. He kept ringing me and saying, "I need you to protect my business. I need you to save these hours for me." I said to him that I'd do what I could, but at the end of the day it's a, it's a business decision by SNP. If that's their decision, that's their decision.

10 Did you say that to Mr Smith, "We've got to save Tommy"?--I don't think I said it in exactly those terms, but I did say to Dennis about the information that was told to me about Multiworks, you know, I said to him, you know, I am quite concerned that someone's telling me that, you know, these are not the sort of people you want to, you want to do business with.

Did you say anything about your concerns about Tommy's ethical business practices to Mr Smith at the time?--No.

Well, it seems if we turn to page 328 – I'll withdraw "it seems". You provided to Mr Smith by way of email Mr Roche's mobile number. Do you see that?--Yes.

20 And that's at 14.21 on the 11<sup>th</sup>, and the email we just looked at, for your reference, was at 7.46 in the morning, so it suggests that perhaps you did scrum down later, would you agree?--Yes.

And it seems like when you did meet you suggested or perhaps agreed amongst yourselves that Dennis should call Tom Roche directly.--Yes.

30 And what did you hope Mr Smith would convey to Tom Roche?--I think the, I think the hope was that Dennis would say to Tom, look, things are going well down here. You know, we're just – and again it was the line of we're about to enter a very, very busy cycle with different buildings and that coming online. You know, a change in, a change in supplier at the moment would, you know, could potentially disrupt operations.

If we go to page 239.

THE COMMISSIONER: What do you understand the expression "scrum down" to mean?--Oh, it's just scrum down, just let's get together and talk.

40 I stand to be corrected, but a number of years ago it was an expression used by corrupt police, scrum down, that is, put their heads together and come up with a common approach, and generally a common approach to the evidence they would give. Were you aware of that?--Not for that, for that term, no.

MR ENGLISH: Was it your term or something you'd heard other people use before you sent that email on 11 April?--I don't know. I don't know if it's something that, you know, Dennis has said, look, let's, let's, you know, scrum down or, you know, let's catch up for coffee and talk.

THE COMMISSIONER: He was an ex-police officer, wasn't he?---Yes.

MR ENGLISH: If we go to page 329. It starts with an email from Dennis Smith to you, subject "Multiworks proposed subbie", again on 11 April at 7.22pm. He writes, "Maybe they subcontract. Ha ha." Slash, meant to read, "Didn't get a chance. Call Tom yet?" Slash. "Might do in morn, work phone." You see that?---Yes.

10 What did you understand was the joke about Multiworks subcontracting?  
---On their workers' comp, Fawad had told me how big this company was and that they, you know, supplied them hundreds of guards, and when we had a look at their, their workers' comp certificates that they sent through to get the ball rolling with the university, their workers' comp certificate only had three, three staff listed. It didn't sort of reflect that they were a company of quite some size.

Did you ever have a chance to see SIG's workers' comp certificates?---On occasion. I don't think they were much better.

20 Were they passed on to Dennis at any time?---They would have been, yes.

So what's the joke? We go from one company that says it doesn't have many guards on its workers' comp insurance to another company that doesn't have many guards on its workers' comp insurance.---I think it's just indicative of, of the situation. Like, you know, is it better the devil you know than the devil you don't know?

30 Well, it shows, do you agree, Mr Smith's got some understanding of issues in the subcontracting arrangement between SNP and at least Multiworks as a potential subcontractor and SIG? Is that your interpretation?---I think with Dennis's comment is that maybe Multiworks subcontract to someone else to get the guards, and that's, you know, perhaps why it doesn't appear on their, their workers' comp.

40 So why would, to your understanding, Mr Smith find that funny?---Maybe sort of, you know, maybe sort of dark humour. You know, maybe he's noticed that on SIG's worker's comp and then he's seen it on the workers comp from Multiworks and, and just thrown his hands up, going, you know, what's the difference?

Well, there was an email whereby you, I think, accidentally had indicated to Mr Smith that some SNP guards were doing work as SIG employees. Do you remember that, the email with the question?---Yes.

So he knew that – I withdraw that. If there was another subcontractor coming in, did you have any discussion with him that it'd just be the same things, that SNP guards would just work for the new subcontractor?---I don't know if the conversation got that far.

Your response is emphatic, I suggest. "No" with a lot of Os, "I give up," and a double question mark. What are you intending to convey there? ---More the, I think probably in relation to Dennis's typing there, where he said maybe they subcontract, as in maybe Multiworks, you know, SNP subcontracts to Multiworks, Multiworks subcontract to someone else and that's me just going that's it, I, you know, I give up.

So then if we go to page - - -

10

THE COMMISSIONER: Before you do, what was the date of the scrum down?

MR ENGLISH: That was the 11<sup>th</sup>, Commissioner. The 11<sup>th</sup> at 7.46am.

THE COMMISSIONER: Did you in fact meet with Mr Smith on that day in relation to the proposal to terminate SIG?---Quite possibly.

20 And was there a discussion during the course of that scrum down that Mr Smith would call Tommy?

MR ENGLISH: Tommy or Tom, Commissioner?

THE WITNESS: No, it was Tom Roche. He was going to, he was indicating that he wanted to talk to Tom, Tom Roche.

THE COMMISSIONER: Yes. Thank you.

30 MR ENGLISH: If we go to page 330. This is, at the bottom of the page, a draft of the email that Mr Smith eventually sent to Mr Roche. You can see that he forwards it to you on 12 April, 2014 and you respond, "Seems fine. Not confrontational, just factual." Do you see that?---Yes.

So as part of the scrum down, were you going to review Dennis Smith's correspondence to Mr Roche?---I think, I think Dennis sent that to me and just said, oh, you know, what are your thoughts, what do you think? And I've just replied, look, seems fine, seems okay to send through to Tom Roche.

40 The first paragraph, last sentence, "On the surface it appears this is for a few technical roster breaches for this site." See that?---Yes.

You knew that wasn't true, didn't you?---Yes.

I mean, why did you let Mr Smith make that representation to the head of SNP security?---I didn't want to tell Dennis, you know, exactly what had been going on.

So you're settling a lie from Dennis Smith to your boss, correct?---Yes.

And at the same time, you're lying to Dennis Smith about the contents of the lie, would you accept that?---Yes.

First dot point, "This has been a risk to me and (not transcribable). There has not been one breach of the KPIs for operations guarding at this site since the inception of the contract in 2015." See that?---Sorry, I'm just looking for it on the screen.

10

The first dot point under the second paragraph of dot points.---Yes, I can see that.

I mean, that wasn't true, given your evidence on Friday, that KPIs weren't even being accurately tested and recorded, correct?---Yes, that's correct.

What about that statement in the third dot point from Mr Smith, "I do not personally know the owner of S International and agree he needs to sort his rostering out." Do you see that?---Yes.

20

Now, Dennis Smith knew Tommy, didn't he?---Yes, he did.

They'd met personally at the university, hadn't they?---Not personally. I think Dennis had seen him a couple of times when he'd come in to see either myself or Emir.

Sorry, I should have said they'd met face-to-face at the university?---I think maybe on one, one or two prior occasions.

30

And he says, "And agree he needs to sort his rostering out." Well, you knew his rostering was being done by an SNP employee, correct?---Correct.

And did Mr Smith know that, that Frank Lu was doing the rostering for Tommy, to your understanding?---Yes.

So that's a misleading aspect to that sentence, isn't it?---Yes and no. I mean if, if Frank's doing some work on the site for S International to look after the roster and Dennis is saying that SIG, as in Tommy, Lynn, Frank, they need to sort their stuff out, it's in a roundabout way.

40

Well, on – sorry, I cut you off.---I, I think he's just trying to maybe deflect heat away from Frank and just talk to it as S International in the broader sense.

On your evidence, Frank spoke to you before he took that – I withdraw that. Tommy spoke to you about employing Frank to do the rostering and you may have checked it with Mr Fields at SNP. Do you recall giving that evidence?---Yes.

MR COLEMAN: He didn't give that evidence, did he?

MR ENGLISH: He may I think, he may have.

MR COLEMAN: I thought Frank gave that evidence.

10 MR ENGLISH: Sorry. Did you say that you had a recollection of potentially enquiring up the chain about that proposition of Frank doing the rostering for SIG?---Yes, that's correct.

And what's your recollection of who you made an enquiry of at SNP in relation to that proposal?---If I did, it would have been my line manager, who at the time would have been Neil Fields.

20 THE COMMISSIONER: My impression of the evidence so far is, to the extent that claims may have been made for work that wasn't done, the real money was within the ad hoc services, is that right?---As in for the, for the majority of the ghosting or - - -

Yes, for the ghosting that involved putting in hours that weren't worked, the real money was with ad hoc services, like the - - -?---Sorry, when you say real money, the higher profit or more - - -

Yes, more for you, more for Frank, more for Emir.---I'd say that would be, that would be a fair, fair statement.

Thanks.

30 MR ENGLISH: So there's no suggestion, you'd agree, that Frank hasn't done a good job with the rostering in this email, Frank Lu?---Yeah, there's no suggestion there that he's done a bad job.

And then if you look at the penultimate paragraph, "Given all the above, I'm requesting business as usual for this university in terms of the ad hoc supplier." Now, this doesn't say, "We need a month or two months to get things together" or "We've got a lot of buildings coming online," this just says, "Business as usual going forward, please," does it not?---Yes.

40 And it says, "We accepted the tender with the lodgement of S International as the subbie." Is that true?---Yes, they'd been our contractor on-site prior to that tender and we'd declared through the tendering process that we would be wanting to continue to use S International.

Then there's a discussion of increased hours of guarding for all new five buildings coming on board. He says, "I need trained staff I have at the moment to accomplish this." See that?---Yes.

Commissioner, I note the time. There's probably a bit more on this topic and then something small and I'd hope to sit down. I don't know if you want to continue or take a short break.

THE COMMISSIONER: I think we'll continue till 11.30 if that's okay, and then we'll take a break from 11.30 to 11.45.

MR ENGLISH: I'll just ask if a phone call can be played, please. It's session number 03707.

10

THE COMMISSIONER: Who's it between?

MR ENGLISH: It's between Dennis Smith and Daryl McCreadie.

THE COMMISSIONER: You're tendering that, aren't you?

MR ENGLISH: I am. Can I just take an instruction? Sorry.

THE COMMISSIONER: Sure.

20

MR ENGLISH: I'm instructed the transcript and the audio can receive the same exhibit number for this tender. There's apparently not a delineation made on the public website, so - - -

THE COMMISSIONER: All right. Well, they'll be admitted as Exhibit 80.

MR ENGLISH: Exhibit 80?

THE COMMISSIONER: Yes.

30

**#EXH-80 – TRANSCRIPT SESSION 03707**

MR ENGLISH: Thank you. It's a call from 12 April, 2018, with time stamp 14.51.05. So you can see, Mr McCreadie, when you hear it played, it purports to be around half an hour after your email to Mr Smith. We have copies, Commissioner. Do you have a copy of this?

40 THE COMMISSIONER: I'd appreciate one if you've got one so that I - - -

MR COLEMAN: I'm sorry, was it Smith to McCreadie or McCreadie to Smith?

MR ENGLISH: I'm told, yes, Smith to McCreadie.

MR COLEMAN: Thank you.

MR ENGLISH: We'll hand out some transcripts. It'll be brought on the screen after the call's played, if that can please be played.

**AUDIO RECORDING PLAYED**

**[11.24am]**

MR ENGLISH: Go to page 1, please. Mr McCreadie, if this is just a business decision, as far as you understand, for Mr Smith based on operational concerns, why do you need to get your line together? You see in the middle of the page? "So that's our line."---Yes.

THE COMMISSIONER: It means getting your stories straight, doesn't it? ---Yes.

MR ENGLISH: Why was there a need to do that?---Just listening to the phone call, I think, I think it was a case of Dennis just wanting to be clear to Tom Roche, you know, when he has that discussion with him or, you know, when he sends that email to Tom and then talks to him about it. He may have felt that Tom may have then picked up the phone and called me.

But if Mr Smith is just passing on his genuine concerns about operational capacities at the university, why on earth would you need to agree on that in advance?---Well, I think in terms of the contract, he made reference to Telstra about there being issues with, with Telstra and I think if SNP wanted to push the point on changing things that Dennis would have to report it to managers above him, and by that stage they would have, they were already considering, you know, "Why do we keep SNP? Why don't we just go back out to the market?"

See at the bottom of page 1 Smith says to you, "Yeah, no, that's fine. And then in that, in my response I only, it only, it was clear enough. I don't care about other site. It's only Sydney, it's only University of Sydney I need him to say, isn't it?" And you say, "Yeah."---Yeah, so obviously I'd let Dennis know that they were looking to remove, SNP was looking to remove SIG as a supplier across all SNP sites.

Why on earth, given that Mr Smith works at the university, would he have any weight or any ability to talk about SIG's involvement at other sites? Why would he need to clarify that with you?---Oh look, I think he was just saying, look, I don't care about what SNP do on other sites. I'm only concerned with what happens here at the university.

But he's asking for your approval about that statement and you say, "Yeah." Do you see what I'm saying?---I can see what you're saying but I - - -

It suggests like, you've had this scrum down, you've worded him up what to say and he's coming back and confirming with you "I don't need to mention

any of the other sites, do I?"---Well, he, he again I'd said, I've, I'd obviously said to him that they're looking to remove SIG from all SNP work including other, other sites nothing to do with the university and, and Dennis is, is wanting to be clear that he's not, he's not wanting to mention or, or, you know, care what SNP does on, on other locations.

That would be an absolute given, wouldn't it? How could he possibly comment on any other site other than the university in respect of SIG's performance?---That I don't know.

10

Well, it suggests - - -

THE COMMISSIONER: Can you tell us as best you can, why was he seeking your approval to limit his response to the University of Sydney only?---Again going back to the, the comment I made about Telstra SNP, there were a lot of contractual problems on the electronics services side of the contract and he felt that if there was more, if there was a lot of issues starting to pop up on the guarding side of the contract that he would have to escalate all of that up to senior management within the university and that would look bad for SNP as, overall.

20

I suppose one person who would care about the other sites was Tommy? ---Yes.

MR ENGLISH: You didn't say to Mr Smith anything along the lines of Tommy's asked me to, asked if we can do what he can for him here?---No.

What about on page 2, Smith starting, "Yeah, and I've asked him. Don't send it on." And it says, in the second-last line, "Maybe, you know, we obviously done the right thing by him, made a lot of ad hoc money and things, you know." Do you know what that's a reference in relation to? ---That's a reference in relation to the amount of ad hoc work that SNP had picked up at the university over the years.

30

Why is that doing the right thing by SNP?---Well, I think, I think it's a good, good thing for SNP because they, you know, you know, SNP had tendered for, for services and, you know, the ad hoc, the ad hoc rate was quite low but the volume of work was good.

40

Do you know what the reference is to "and things, you know", "made a lot of ad hoc money and things, you know." Do you have any idea what that is?---I don't know. Again I'm, I'm, I'm seeing that as, just in the context that, you know, SNP has made a lot of, they've made a lot of money out of having the university contract as well was, you know, being able to, you know, use that in terms of marketing.

If you can go to page 332, please, of Exhibit 36. You can see in the middle of the page Mr Walizada sending an email to yourself and Mr Tansey saying

that, "Due to some urgent unforeseen business priorities there's a request to please hold on the changeover of the subcontracts for Sydney Uni only." Do you see that?---Yes.

10 And then you respond, "Thanks for the heads. I had mentioned the need for change to Dennis on Wednesday, the 11<sup>th</sup> and left the ball in his court to advise us on the university's position. Just so you're aware I don't have anything back from USYD." That's completely untrue, isn't it?---I didn't have anything official from the university. It obviously would appear that, you know, as was probably in that email or phone conversation or whatever it was that we would expect that Tom Roche would intervene and just ask everyone to hold off.

Well, you say, "I had mentioned the need for change to Dennis on Wednesday, the 11<sup>th</sup>." It was quite the opposite, wasn't it? You and Dennis were scrumming down that day to ensure there wasn't any change.---Yes.

20 THE COMMISSIONER: What you're repeating there I take it was what you understood SNP's position to be?---Yes.

And you were pretending to them in effect that you were carrying out or you were seeking to abide by their position?---Yes.

When you were in fact doing the contrary?---Yes.

30 MR ENGLISH: And you're giving the impression that this is only Dennis Smith who has come up with the idea that there shouldn't be a change in subcontractor where you're saying I've left the ball in his court to advise on the university's position whereas the reality is that you're playing a direct role in settling what the position is. Correct?---Yes and no. You know, if, if someone higher from within the university wanted Dennis to, to report back and just say hey, you know, what's going on, if Dennis had have put that report up through their management structure the university, and again I can't speak on behalf of the university but the indication I got from Dennis is that the uni would, would just go back out to the, out to the market to change suppliers all together.

40 Page 335, please. You can see that there's that same email we were looking at from Mr Walizada on 13 April, 2018 at the bottom of the page.---Yes.

It's forwarded by Mr Smith to you. He says, "I think Tom must have spoken to Fawad." And it says, "That's a start. Tick box. You let Tommy know we have a breather ATM." And you say, "Will do." Do you see that?---Yes.

He says, "Good start anyway."---Yes.

I mean why do you understand Mr Smith was instructing you to let Tommy know you had a breather?---I think at the time we were all under the impression that Tommy was overseas. He'd told us that his mother had passed away and obviously if he's over there and this is happening to his business here just to settle him down and just say, look, you know, at the moment there's not going to be any change. You know, stand by and see what happens.

10 But why "we have a breather"? It suggest you're all in it together. Do you agree?---I guess we were all in it together not to change SIG as a supplier at that moment in time but for, for all this business about ghosting shifts and all that rubbish, you know, Dennis was never a part of that.

Five days later search warrants were executed at Sydney University. Correct?---That's correct.

Did that come as a shock to you?---Yes.

20 You must have discussed that event with Mr Smith.---Yes.

Did you discuss it with him on the day?---I was, from, from my memory I was still there, Dennis had gone home first and I was still there whilst the officers were still searching the premises. I can't remember if I called Dennis on the way home or I can't, I can't remember at all.

Well - - -?---I mean - - -

30 You might not remember when you spoke to him but you did speak to him that day about the warrants, did you?---I don't know if it was that day or the next day.

Okay. And what was the conversation you had, can you tell the Commissioner, please?---I think Dennis may have asked me if I, if I knew anything or, you know, what was your, what was your understanding of what had, what had gone on. You know, he obviously alluded to the fact, look, it's, it's ICAC, there'll be, you know, inquiries and things like that, he said, "You just have to, you know, see what it is they want." And he encouraged that I tell the truth.

40 And did you tell Dennis the truth about what had been going on at the university in terms of the time sheet fraud?---No, I don't think I did.

What did you say to Dennis, I've got no idea what they're investigating into?---Look, at that stage I hadn't even seen a copy of the warrant, like all I got told was that, I mean obviously I saw the ICAC officers come into the, the part of the office where we sat and they had some paperwork with them that they'd shown Dennis, and yeah, I didn't get shown anything.

All right. And since that occasion have you had a discussion with Dennis about what the nature of ICAC's investigation was?---Yes.

So what was that discussion you had with him, please tell the Commissioner.---Look, I can't remember the exact context of what it was, but I had said to Dennis that, you know, "I think I'm in a lot of trouble. I didn't go into too much detail as to, as to what it was. I don't know if I," I didn't have the heart to tell Dennis or I just, I didn't know what to say.

10 When you said, "I think I'm in a lot of trouble," did Mr Smith say, well, why is that?---I don't think he wanted to know. I think he just wanted to distance himself.

He didn't want to know. Was that the first time you got the impression that Mr Smith didn't want to know about what had actually been occurring in terms of misconduct in the Campus Security Unit?---I, I don't know.

20 Do you get the impression he turned a blind eye to the misconduct in the Campus Security Unit?---Look, if he knew, if he knew what was going on then, yes, he has probably turned a blind eye, if he knew what was going on would he have pulled us aside and done something about it, I don't know.

He certainly never complained to you or was angry that he felt like you'd misled or betrayed his trust?---No, he never gave that impression.

Commissioner, that's the examination of this witness.

30 THE COMMISSIONER: Thank you. We might adjourn till 5 to 12.00 and come back then I think. And you're ready to go, Mr Coleman?

MR COLEMAN: I am. A lot of what's happened over the last hour will shorten what I have to ask.

THE COMMISSIONER: Okay. Fair enough.

MR COLEMAN: Thank you.

40 **SHORT ADJOURNMENT** **[11.44am]**

THE COMMISSIONER: Take a seat. You're on your former oath.  
---Sorry?

Your oath continues.---Thank you.

MR ENGLISH: Commissioner, Mr Coleman over the break helpfully brought one further document to my attention. I might just ask a further series of questions in relation to that briefly, if I may.

THE COMMISSIONER: Yes, just before you go on, Mr Coleman?

MR COLEMAN: Your Honour, Commissioner.

10 THE COMMISSIONER: If during the course of your instructing solicitor's review of material you come across stuff that you'd like Counsel Assisting to put into evidence, that should be done. If you can just let him know.

MR COLEMAN: Yes. As I said, I haven't seen them but I'll tell my instructing solicitors - - -

THE COMMISSIONER: Yes, yes.

20 MR COLEMAN: - - - and those who are doing the review. Unfortunately, those who are doing the review are probably not as familiar with the issues, unfortunately, that my instructing solicitor sitting with me is, but we'll see what we can do. And of course anything that we think should go into evidence, we'll bring to Counsel Assisting's attention.

THE COMMISSIONER: Terrific. Thank you.

30 MR ENGLISH: If Exhibit 36, page 326 can be brought on the screen, please. Just to complete the picture, I think this is a file note of a meeting that was had between Mr Tansey, Mr Walizadi, yourself and Domenic Giardini in relation to the potential removal of SIG. Is that right?---Yes.

It's an email from Mr Tansey. Do you recall receiving this email?---I don't recall it specifically but I would have received it.

You're recorded as providing some input into the meeting at about point 6 of the page. "Daryl understands that this is a business and we need to take steps to remedy any failures." You see that?---Yes.

40 You wouldn't have been candid with your knowledge of the misconduct going on with respect to the time sheet fraud during this meeting with your fellow officers from SNP, is that right?---Yes, that's correct.

It goes on, "I confirm that all our conversations are confidential and not to be discussed." Do you see that?---Yes.

Would you have discussed the contents of these, of this particular meeting with Mr Smith?---Quite possibly.

What about Tommy? Would you have discussed it with him?---Could, could have, probably.

Well, you'd accept you didn't keep its contents confidential, then.---No, I didn't.

Thank you, Commissioner.

10 THE COMMISSIONER: Thank you.

MR COLEMAN: Mr McCreadie, my name is Coleman and I appear for SNP Security. So this meeting was on 9 April that Counsel Assisting just took you to, and as he has just pointed out, the meeting was – and what was discussed at it – was supposed to be kept confidential to your employer, SNP. That's right, isn't it?---Yes.

MR C. WATSON: I must say I thought it was 11 April, not the 9<sup>th</sup>.

20 MR ENGLISH: The file note was sent on the 11<sup>th</sup> and the meeting was the 9<sup>th</sup>.

MR COLEMAN: No, the email was the 11<sup>th</sup>. The meeting took place on the 9<sup>th</sup>.

MR C. WATSON: Thank you. Thank you.

30 MR COLEMAN: So from the 9<sup>th</sup> – well, I withdraw that. You'd been aware earlier, and Counsel Assisting took you to some material earlier this morning, that in March and April SNP had had concerns about SIG breaching fatigue management policies, correct?---Correct.

And by 9 April from this meeting it's pretty apparent, isn't it, that things had come to a head and SNP had had enough and had decided to terminate SIG's subcontract.---Yes.

Not only for Sydney University but generally, correct?---Yes.

40 Because we heard some evidence from you the other day that previously in March there had been some concerns about the services provided by SIG at one other SNP site, one of the tribunals, correct?---Correct.

And you had assisted, I think your evidence was, Tommy in dealing with a response to those concerns.---Yes.

And you'd accept, wouldn't you, that was in breach of your obligations to your employer SNP in preferring the interests of SIG to SNP.---Yes.

So Counsel Assisting just asked you, once you were aware of SNP's intentions to terminate on 9 April, did you tell Tommy about this meeting? And I think you said probably, is that right?---Yes, because I think, I think they may have spoken to him that day or the next day anyway.

But the simple fact is you did have a conversation with Tommy, didn't you, about it?---I probably, I probably did.

10 Well, you wanted to keep him informed of what was happening, didn't you?---Yes.

You wanted to ensure that you could keep receiving the money from Tommy that you were receiving on a weekly basis, correct?---Part of.

Well, not part of. That was one of your concerns, wasn't it? If the contract between SNP and SIG was terminated, you wouldn't continue to receive what was then \$500 a week in cash from Tommy, correct?---Yes, that's correct.

20 And your employer, SNP, to your knowledge did not know about those payments, did it?---No, they didn't.

And you were concerned to keep Tommy and SIG on the Sydney University site and not have the contract terminated so that you could keep claiming moneys for the ghosting shifts, correct?---Correct.

30 And you engaged, I want to suggest with you, over the next few days in a course of conduct designed to assist Tommy, through Mr Smith, in ensuring that the contract between SIG and SNP, at least insofar as Sydney University was concerned, was not terminated.---Yes.

I want to suggest to you you understood that to be a gross breach of your obligations to your employer, SNP.---Yes, it was.

And you understood that at the time, didn't you?---Yes.

40 Tell me, at this time did you know that Tommy had been providing gifts and/or benefits to Mr Smith?---No.

You'd never discussed that with Mr Smith?---No.

Now, I won't ask you a lot of the questions that I was going to because Counsel Assisting has done that. But can you just please go to, if Exhibit 36, page 330 can be brought onto the screen. Now, counsel's asked you some questions about this, Mr McCreadie, but I just want to ask you a few more. As I understand it, you'd seen a draft of the email which appears in

the bottom half of the page, is that right?---That is the, I think that is the draft.

And did you help Mr Smith draft the email?---No, I, from memory I think Dennis drafted it and sent it to me and said, "This is what I'm, this is what I'm going to send to Tom. What do you think?"

10 Now, I think, correct me if I'm wrong, but the effect of the evidence you gave, or some of the evidence you gave, to Counsel Assisting was that there was a concern that if SNP terminated SIG's contract for Sydney Uni that Sydney Uni would just say we'll go to the market and start afresh. In other words, it would terminate SNP's contract with Sydney Uni.---That was my understanding.

Can you look at the last paragraph of the email. "I have not received an official email request to accede to the new supplier, but realistically for this site, University of Sydney, I don't want to get it and have to answer it in an official capacity and send it up the chain." Do you see that?---Yes.

20 You understood that, didn't you, to be at least an implied threat by Mr Smith that if he received the email terminating SIG's contract at least for Sydney University that SNP would be at risk of losing its contract with Sydney University.---Yes.

And you agreed with Mr Smith in sending an email which contained that implied threat, didn't you?---What Dennis wants to send or what he doesn't want to send from his email addresses is his business.

30 Well, see at the top it says, "Seems fine"? That's what you write, isn't it, having seen the draft?---Yes.

You didn't say to him, "Why are you writing that?" did you?---Well, no.

Because that's the effect you wanted. You wanted to take all steps that you could and assist Mr Smith in taking steps to ensure that the SIG contract was not terminated, at least insofar as Sydney University was concerned, correct?---Yes, that's correct.

40 Now, can page 338 be turned up, please, of the same exhibit. Now, you'll see here this is an email from Mr Roche of SNP to Mr Smith of 15 April. ---Yes.

And it says, "Just to let you know we've put on hold indefinitely on our plans to change contractors at the university."---Yes.

So were you aware that Mr Roche was going to send that email prior to it being sent?---I wasn't aware that he would, he would send it, but I mean, Dennis obviously expected some sort of response from Tom.

But were you aware that the decision had been made already not to suspend or terminate, I should say, SIG's contract with the university, insofar as the university was concerned?---No, because the final say would be from Tom Roche.

10 Just for the record, Commissioner, I note that on the next page, page 339, the final paragraph I took Mr McCreadie to remained in the final version of the email. "I have not received an official email request." That's the one I took.

THE COMMISSIONER: Thank you.

MR COLEMAN: Now can you go to page 342. If 342 can be brought up, please. Now, you'll see in the middle of the page, Mr McCreadie, there's an email from Mr Smith to Mr Balicevac. I'm sorry if I'm pronouncing his name incorrectly.---Yes, I can see that.

20 That's the day after Mr Roche sends his email, and Mr Smith forwards it to Emir with a tick and then some other symbols after it.---Yes.

And then you'll see at the top later that day Emir sends it to Tommy, to Lynn, to SIG rosters. I'm assuming that's Frank, is it?---Yes.

Did you know that this email had been forwarded by Mr Balicevac to these other people?---Not that I can, not that I can recall. He wasn't, I mean, this is all around the date of the search warrant. Emir was on leave at the time.

30 Emir was on leave, was he?---Yes.

So did you know that Mr Smith had forwarded Mr Roche's email to Emir? ---Not that I can recall, no.

Does it surprise you?---No.

40 Are you not surprised because you knew Mr Balicevac and Mr Smith had a very close relationship?---I knew Emir was quite close to Dennis but I didn't know that Dennis would send that email to, to Emir and not copy me in.

Is it really your evidence that Mr Smith didn't know what was happening at the university with respect to the ghosting practices that were being undertaken?---Yes.

Now, I started with that topic because it was fresh in our minds. Can I just go back, as it were, to the very beginning. Can you remind me, please, when you were first employed by SNP?---May 2005.

Thank you. And from what time were you responsible for, as account manager for the university?---Through, I was sort of, in the beginning I was sort of the backup account manager to the university, and then there was a period of time I think around, oh, around 2008 or maybe 2009 when I wasn't the account manager for the university.

When you weren't?---Yeah, where I was not the account manager for Sydney Uni.

10 You were doing other clients, were you?---Yes.

And when were you the backup account manager?---When I started.

I see. But that role was performed from SNP head office rather than on-site primarily?---Yes.

So I gather when you took on other clients in 2008/09 that was in fact a promotion for you, going up the SNP chain? Would that be right?---No.

20 No. When did you then become account manager again for Sydney University?---I think, I think maybe November 2009 or December 2009.

Well, that would have been regarded as a promotion, wouldn't it, by you? ---Promotion?

Mmm.---No.

Sydney University was a very significant client to SNP, wasn't it?---Yes, it was.

30 And it indicated, as you understood it, the placing in you of a level of trust and confidence by your employer to look after its interests insofar as such a significant client was concerned, would you agree with that?---Yes.

When did you then move out to Sydney University to work from the site? ---About, I think it was July or August 2015.

40 Were you then still account manager or is that when you became what you refer to as the site manager?---I was still account manager. I still had other, other locations and other contracts that I was required to look after.

I think on day one of your evidence you said that that was a bit of a sideways move for you. Is that what you said?---Yes.

But you'd accept, wouldn't you, that being placed out at Sydney University as the site manager was a position of significant responsibility?---I think anyone who would have sat in that role would have had a position of significant responsibility.

And as you understood again, it reflected a significant placing of trust by SNP in you as the employee?---Yes.

To exercise your obligations pursuant to your employment with SNP to look after its best interests.---Yes.

And service its clients properly.---Yes.

10 The client in this case being the Sydney University.---Yes.

And you had a degree of autonomy in being site manager at Sydney University, didn't you?---Yes.

And that the responsibilities you had included ensuring that the subcontractor, SIG, undertook the work that it was supposed to do?---Yes.

20 Tell me, I think your evidence was the other day that from about 2012 you had started taking a weekly payment from Tommy. Have I got that right?  
---I'm, look, I'm not a hundred per cent sure about that time line. But, look, I don't remember exactly when Tommy was signed up as a contractor to SNP, but there was certainly, you know, some gifts and, and gift cards and that. There was some payments of cash to me, but when it all started it was irregular.

But it became regular pretty quickly after that, didn't it?---I think it became more, more and more regular, 2013, 2014.

30 And was that when you started getting \$300 a week?---Yes.

And then it increased to \$400 a week.---Yes.

I think this was your evidence. And finally \$500 a week.---Yes.

And that was not including the amounts that you'd claimed and were paid for shifts, for example, that you didn't work.---Yes, that's, yeah.

40 And I won't rehash the evidence that Counsel Assisting took us to to show that they were very significant amounts over the time that you were the site manager for SNP at Sydney University.---Yes.

And you did not disclose any of those matters to SNP, did you?---No.

And indeed I want to suggest to you that you undertook a course of conduct during your time as site manager which was designed to deceive SNP from finding out about your conduct. Would you agree with that?---Yes.

And I asked you a moment ago that some of your responsibilities at the university were to ensure that SNP undertook its obligations under the subcontract correctly. You'd agree with that, wouldn't you?---Yes.

And you didn't do that, did you? That is, you did not take steps to ensure that SIG performed its obligations correctly. Rather, as you've just agreed, you took steps to ensure that SNP was able – I withdraw that. You took steps which allowed SNP to fraudulently – SIG, sorry, thank you – SIG fraudulently claim payments for work that was not undertaken, correct?  
10 ---Correct.

And again you did not disclose that to SNP?---No.

And you'd accept, wouldn't you, that it was a gross breach of your obligations to SNP?---Yes.

And it placed SNP in the position where potentially it was in gross breach of its contract to the university?---Yes.

20 Now, to your knowledge, the conduct engaged with was – that is, I'll call it the dishonest conduct, that's the ghosting conduct that Counsel Assisting has asked you questions about.---Yes.

And by that I mean the claiming for shifts that weren't performed or either doing shifts and claiming under someone else's name, right?---Yes.

Now, you knew that Tommy knew about that. That's correct, isn't it?  
---Yes, Tommy knew about that.

30 And you knew that Lynn from SIG knew about that.---Yes, she did.

And you knew that Emir knew about that.---Yes.

And Emir was someone who was employed by SNP and was put there as your 2IC, your second-in-charge.---Yes.

And one of your obligations as the senior SNP person at the site was to supervise the performance of Emir, correct?---Correct.

40 And you didn't do that, did you?---No.

You let him and you joined with him in this dishonest conduct to engage in the fraudulent conduct we've heard about, correct?---Correct.

And you knew that Frank Lu was doing that, didn't you?---Yes.

And, again, Frank Lu was an employee of SNP, to your knowledge?---Yes, he was.

And, again, you were supposed to be monitoring and supervising Mr Lu, correct?---Correct.

And disgracefully you did not do that, did you?---No.

You in fact allowed him and joined with him in engaging in the dishonest conduct we've talked about, correct?---Correct.

10 Now, from time to time is it right that you were copied into most emails between SNP head office and SIG with respect to the operations of SIG at Sydney University?---I'd say probably.

And those emails would include queries, wouldn't they, by SNP head office about rostering issues?---Yes.

About fatigue management, as we've seen.---Yes.

20 And they often were queries whereby perhaps anomalies in emails that had been sent to them by SIG had been raised.---Yes.

And I want to suggest to you that rather than assist SNP in finding out what was going on, you engaged in conduct by telling SNP employees things that weren't true with respect to the operations at Sydney University. Would you agree with that?---Yes.

You actually put up a smokescreen so that SNP couldn't truly find out what was going on. Would you agree with that?---Yes.

30 And also the scheme that we heard about was something designed with your assistance so that SNP, it would be difficult for SNP to find out what was going on. Would you agree with that?---Yes.

For example, you would choose shifts to claim fraudulent payments on in such a way that would beat the SNP system, which was designed to capture limits of hours worked by employees. Would you agree with that?---Yes.

40 And you would also select what you referred to in your compulsory examination as the best jobs on which to claim the fraudulent payments, correct?---Correct.

And what did you mean by that?---I think I probably already gave it in evidence but, you know, jobs that were low, low-risk or low-impact, ones that, you know, would be easily hidden.

And again this was part of the dishonest scheme engaged in by you, with at least Frank, Emir, Tommy and Lynn, to deceive SNP from the true course of conduct you were engaging in at the university.---Yes.

And that continued. Do you remember the email, I'll call it the "be careful" email. It's Exhibit 36, page 11. Do you remember that email, when you wrote to SIG and said, "Be careful about what you send to SNP"? We'll bring it up.---Yes, I remember that.

10 You just sent this to SNP rosters with multiple exclamation points, and Counsel Assisting asked you some questions about this and you sent false information back to SNP to divert them from the possibility of finding out the true position at Sydney University, didn't you?---Yes.

And from time to time would you receive calls from SNP head office again about time sheet anomalies or time sheet queries for the SIG work at Sydney University?---Yes, I would.

And again you would not provide them with accurate or truthful information to enable them to find out what was truly happening, would you?---Correct.

20 Can I ask you some questions about time sheets. For example, we've seen some evidence about time sheets with missing information being sent to SNP, for example a missing security licence number or a missing signature. To your knowledge, if the name of the security guard was entered into the SNP system but the licence security number wasn't on the time sheet, the system would pick up and record the security licence number anyway, wouldn't it?---I don't know, I didn't have access to Microster.

30 You don't know that that's what would happen, that if the name had already been entered into that system that the licence number would be generated automatically, are you aware of that?---No.

Now, you were asked some questions about the KPMG report by Counsel Assisting this morning, and I won't go to it but I want to suggest to you that the conduct you engaged in was in fact designed to deliberately keep KPMG from speaking to security guards at Sydney University. Do you agree with that?---Half agree.

40 Well, in the half that you do agree, it was designed so that KPMG could not make investigations which would lead them to, or the possibility of leading them to finding out what was really happening at the university in terms of the dishonest conduct we've talked about. Correct?---Well, I think if they had have, whatever they were looking at, if they had have identified dishonest conduct there would have been nothing that I could have done to, to mask that or to prevent that from, from becoming apparent.

No, but it would have highlighted your involvement in it, and that's why you didn't want them to find out. Correct?---Well, that would be correct, yes.

Now, another example of your engaging in conduct which you didn't tell SNP about we heard yesterday was with respect to the line marking, that is the first part of the line marking when Mr - - -

MR ENGLISH: Dirienzo.

MR COLEMAN: Thank you, was involved. You'd agree with that, wouldn't you?---Yes.

10 I want to make it clear, that was a bad question, I'll rephrase it. You engaged in conduct with respect to the engagement of Mr Dirienzo in the line marking which was designed to deceive SNP and was not truthful to SNP. Correct?---It wasn't designed to deceive SNP. John, like I say, my, my recollection is that John approached us and wanted to know if he could pick up some of the work. We were having supply issues with the incumbent supplier where SNP weren't paying their invoices and therefore the company wasn't doing any work until their invoices were settled, so to have John on board to do some of the smaller jobs in the meantime would, would help us out.

20

But you were taking a cut, you and Emir were taking a cut, weren't you? ---Yes, we were, yes, we were also performing the work.

But you didn't tell SNP you were performing other duties and taking a cut of the moneys that they were paying for the line marking work, did you? ---No.

And that was dishonest, wasn't it?---Yes.

30 So let me just check my notes because we've covered some things rather quickly. So is this the position in summary, Mr McCreadie, that from about 2014 or '15 you were receiving regular weekly payments from Tommy? ---Yes.

And in doing so you engaged in conduct otherwise which preferred the interests of SIG to SNP?---Yes.

40 And you knew of the scheme from, well, let me ask you this directly. When did you first understand that there was this scheme at Sydney University to engage in the dishonest ghosting conduct?---Again the early, the early part of about 2016.

Right. So you knew from at least that time that this scheme was in place and you did nothing to stop it?---That's true.

In fact you joined in it.---Yes.

You failed to disclose this scheme to your employer?---Yes.

Indeed you'd agree with me you took active steps to conceal it from your employer?---Yes.

And you knew that the others engaged in the scheme, namely Emir, Tommy and Frank were also taking active steps to conceal the truthful position from SNP. Correct?---Yes.

10 And you knew that if this scheme was discovered of course it would cause significant problems, not only for those engaged in it but for your employer, SNP. Correct?---Correct.

And you still did nothing to stop it?---That's true.

All you did was take the money, didn't you?---Yes.

And in doing so I want to suggest to you that you engaged in dishonest and disgraceful conduct. Do you agree with that?---Absolutely disgraceful.

20 Yes, that's the examination. Thank you.

THE COMMISSIONER: Mr Coleman. I'm happy for you to set your own order if you like. You go ahead, Mr Bender.

MR BENDER: Mr McCreadie, Bender is my name. I appear for the University of Sydney. I think it was your evidence a moment ago that you first became aware of the ghosting practices and time sheet fraud in early 2016. Is that right?---Yes.

30 And does that include awareness on your part that guards were being paid for work that was not in fact performed?---Sorry, could you, could you say that again?

Did you know in about early 2016 that guards at Sydney Uni were being paid for work that wasn't in fact done?---I thought it was being, I thought they were being paid for work, for, for additional work that they'd covered under a different name.

40 But at some point you became aware that work was being paid for that wasn't in fact being done by any guard. Is that correct?---Yes.

When did you become aware of that?---Again that would have been probably around about, I'm guessing round about July of 2016.

And you yourself at some stage began to be paid for work that you did not do. That's right, isn't it?---Yes, that's correct.

Was that about July 2016 or later?---Maybe around that time, maybe a bit later.

A little earlier today you said that at a point in time the time sheet fraud became ridiculous in effect. Do you remember using that word, ridiculous?  
---Yes.

10 About when did that happen?---Well, obviously I've seen, you know, I obviously know what I was engaged in but obviously through the, the process of, of being here I've been exposed to, to more than what I knew was actually going on.

Your answer was in respect of a question, this is your answer earlier today, about the KPMG audit, and as I recall you said you weren't too concerned because the levels weren't ridiculous at that time. So when did you become aware that there was a ridiculous level of time sheet fraud occurring at the university?---When I saw the evidence from being here at this inquiry.

20 And when did you say you became site manager?---Officially I think it was around December 2015.

So that was before you became aware that guards were being paid for work that wasn't performed. Is that right?---That was before, yes.

Can Exhibit 69, page 150 be brought up on the screen, please. Have you seen this document before, Mr McCreadie?---Yes.

30 And do you recognise it to be SNP's submission to the university in response to the university's request pertaining to security services and other things?---Yes.

Now, if you go to page 151, which is the next page, you will see in the top right-hand corner it's dated November, 2014. Is that as best as you can recall when you saw this document?---Yes.

40 Going back to page 150, you are listed on the first page as the primary contact and as account manager. Did you review this document before it was submitted to the university?---I probably would have read through it but the, the final review and the final submission would have been up to the, the tenders manager and the general manager for SNP.

But no doubt you understood that it was an important document?---Yes, it is.

So when you would have reviewed it, had you seen an error, particularly one pertaining to your own responsibilities, you would have been quick to correct it, wouldn't you?---I don't know.

Well, you knew it was important, you reviewed it, if you saw a problem, you would have identified it, correct?---Possibly, yes.

Well, if you saw an error, you'd have just let it through, would you?---Well, no, I wouldn't have let a, an error go through. If I had have noticed something, then yeah, I would have pointed it out to someone in the office.

10 If you go now to page 159, can you see under paragraph 1.3, there's a question, "Please describe the following," et cetera. Do you understand that to have been what the university was asking in its request for tender that this document was responding to?---Sorry, could you ask the question again?

Do you understand the question under paragraph 1.3 to be the question the university is asking SNP to answer in its response for the request for tender?---Yes, that's one of the tender questions.

20 And you can see that, under the organisational structure, account manager, which is the first position named, has you listed as the person responsible for relationship management and oversight. Do you see that?---Yes.

And you agree that relationship management and oversight was one of the account manager's responsibilities in the dealings with the university that followed?---Yes.

Can you see the bullet points in that section underneath, the third bullet point says, "Monitor performance against KPIs"?---Yes.

30 Do you agree that was one of the account manager's responsibilities?---Yes.

And oversight of contract delivery, was that another one of the account manager's responsibilities?---Yes.

Then there's a heading, Dedicated Site Manager. The first of the bullet points says that the responsibilities include, "Ensuring the services are properly executed and meet and exceed service levels." Do you agree that accurately describes one of the site manager's responsibilities?---Yes.

40 Can you next go to page 175, there is a heading Management of Guarding Services. Can you just read the first paragraph under that heading to yourself, please. So would you agree that what was being proposed was that you would lead a team, together with the site manager and operations coordinator, to oversee the daily operations of the combined services? ---Yes.

And that's what occurred, correct?---Yes.

And one of your responsibilities was to ensure that the services were delivered within the agreed time frames and budget, do you agree?---Yes.

Now, at the bottom of the page, there's a heading, Rostering, and it goes across the page to page 176, and on page 176 do you see in the second paragraph it says that, "The site manager will confirm all rosters with SNP operations, who will be able to provide support by ensuring that our rostering system, Microster, is accurate and up to date." Do you see that? ---Yes.

10

And do you agree that was one of the site manager's responsibilities?---Yes.

Further down the page is a heading, Attendance Management and IVR. Do you understand part of the concept of attendance management to include ensuring that people who claim to be in attendance at work are actually in attendance at work?---Yes.

20

And do you agree that was one of your responsibilities as site manager at the University of Sydney?---Well, if the system worked, yes.

Putting aside whether or not the system works, it fell within your areas of responsibility to ensure, within the rostering function, that attendance was managed appropriately, correct?---Correct.

And that included managing the question of whether people actually did the work that they were required to do? That was one of your duties, wasn't it? ---Yes.

30

Under that heading, Attendance Management, on the same page, can you see the five bullet points?---Yes.

The first bullet point refers to fingerprint scanning, do you see that?---Yes.

There are fingerprint scanners at University of Sydney that you've observed, that's right, isn't it?---Yes, there was.

They were only used for a short period in 2015 in respect of guarding, so far as you know, is that right?---Yes.

40

They could have been used, could they not, throughout the entire period that you were present at the university?---Look, I don't know about the, about the technology or the, the, the set-up of them but under our, our previous rostering program, I don't think it would have worked.

THE COMMISSIONER: Why is that?---The, the previous program was called PowerForce and I don't think it had the ability to, to integrate with, with fingerprint scanning.

MR BENDER: When you say you don't think, is this not something you thought you ought to have investigated, it being one of your duties to ensure that people actually turned up to work and could be monitored?---Well, I didn't see it as my responsibility to make sure that whatever rostering practice or whatever verification process SNP wanted to install on-site, you know wouldn't it be the IT department and the, and the rostering team to ensure that any technology places on a, on a site would, would, would work and, and that it was set up correctly.

10 But as site manager in the university, with responsibility for attendance management, did you ever think perhaps I ought to see what technologies could be used to check that people were coming to work and doing their job properly?---No.

Was one of the reasons for that, the fact that you knew that people weren't going to work and doing their job properly?---Later on, yes.

20 And no doubt you didn't want to investigate that too closely because you were one of the people who weren't going to work and doing your job properly in every respect?---Yes.

So regardless of whether or not the technology would have worked, there was a fundamental problem in the system, which is the person responsible for attendance management wasn't attending properly. Do you agree with that?---No.

30 But you were the person who, you accept, should have been managing people's attendance in the relationship with Sydney University, correct? ---Correct.

And you yourself, were involved in a fraud which involved people not attending properly?---Yes, that's correct.

And you don't think that's a fundamental problem?---It is a problem but again, as I said, you know, if the system, if, if whatever was installed on-site didn't work correctly, I can't be held to task on that.

40 Well, you could have gone back to the university or SNP and say there's a problem with something that was in the tender document, the fingerprint scanners aren't working properly, we need to fix it, it's my responsibility. You couldn't have said that, couldn't you?---Again, I, once the tender was signed, I, I wouldn't have gone back to the tender to say, hey, you know, here's more work for us to, to get this set up.

I see. So it was your position that once certain things had been said to the university to persuade them to give SNP this very big contract, whether or not those things could be achieved ceased to be relevant once the contract

was signed?---Not entirely. There were things that were in the contract that I wanted to see happen that I just got no support for.

I suggest that fingerprint scanning wasn't one of those things?---No.

Because you didn't want that to happen, did you?---At the end of the day no.

10 Because you were dishonestly involved in a fraud that would have been caught had people been monitoring your fingerprints. That's right, isn't it?  
---Yes. It may not have occurred.

So I suggest to you again there was a fundamental problem in the system because the person responsible for attendance management was involved in what was effectively an attendance fraud.---Yes, I was.

20 And that was a fundamental problem in the system, wasn't it?---The fundamental problem in the system was that the, the management of the data, and we were told from head office that the data coming through from the system was creating havoc with the, the rostering program and it was giving the rosters team more work in, in trying to decipher, you know, who was covering what shift.

And you personally took no step at all to rectify that?---Well, how could I rectify that because I didn't, I didn't have access to Microster. I didn't know how the data was supposed to get through to the, to head office.

30 So I assume your answer is, yes, you didn't take any step to rectify it?---No, I didn't.

Are you aware that guards at Sydney University had GPS trackers in their radios?---Yes.

And those GPS trackers could have been turned on in order to monitor where guards were at a particular point of time. Correct?---Correct.

That would have been a way to ensure that guards were where they were supposed to be. Do you agree?---Yes.

40 THE COMMISSIONER: I think we've dealt with this haven't we, Mr Bender?

MR BENDER: I'm sorry?

THE COMMISSIONER: Haven't we dealt with this?

MR BENDER: Yes. I'll move on from that. One last question on the bullet points. Do you see a reference to a free smartphone application for iPhone/Android?---Yes.

Do those applications also include GPS tracking?---I don't know.

10 And that's not something you decided to investigate in your role as site manager responsible for attendance management?---To be honest I don't think we had the technology, back when this tender was written I don't think we had, I don't think we had the iPhone or, or Android application up and running.

Can Exhibit 71, page 44, please, be brought on the screen. Do you remember being asked on Friday about the deliverables under the work order?---Yes.

And if you go over the page to page 45, please, do you see the KPIs there?---Yes.

20 Do you remember in the tender document that one of the responsibilities of the account manager was to ensure the KPS were performed?---Yes.

Now, you were asked on Friday I think about the KPI in number 5 on the list.---Yes.

And you agree, wouldn't you, that that is something that could be monitored using the technology that was available to the university, being the GPS trackers in the radios?---I guess.

30 But that's not something you ever sought to do?---Well, I mean the, the radios at the university had to be, they had to be logged in in the system for the, for the radio to be operable so that was also, you know, should a radio go missing or get lost or stolen that that radio could be, could be sort of wiped out of the, out of the network. So whether the, the GPS was working or not that would, sorry, that'd be for the university to, to take responsibility for the GPS on the radios. They were the university's radios and system.

40 But you could easily have accessed the data from that had you wanted to, couldn't you, simply by asking Mr Smith to turn it on and have a look at it?---No. I had no, I had no access to the, to the radio network.

But you couldn't have had a conversation with Mr Smith saying we need to monitor these KPIs, we're both responsible for that, perhaps we should look at the GPS trackers?---Again I, I didn't think to look at the radios for, for, for GPS data.

THE COMMISSIONER: Did Mr Smith have access to the network?---I, I think he did but he didn't know how to use it and that's not a, a criticism of

Dennis. It's just, you know, there were certain levels of information we were allowed to see and then there was certain reports and levels of information that we were excluded from being able to see.

MR BENDER: But you certainly have no reason to believe that you couldn't use the GPS tracking to monitor compliance with that KPI?---But again I would need the university to generate that report.

10 But you'd have no reason to believe it wouldn't have been possible had the report been generated?---It could have been generated.

And that also would have been an effective manner of ensuring people attended where they were supposed to attend. Do you agree?---Yes, it could.

Nothing further, Commissioner. Thank you.

THE COMMISSIONER: Thank you.

20 MR GIVORSHNER: Mr McCreadie, my name is Givorshner and I represent Mr Roche, right. Now, from an early time in your evidence you attempted to paint a picture that early in your relationship with Mr Sirour he corrupted you by offering you sums of money and then later on he got you to sign things acknowledging that you would receive that money and from that point on you were trapped because he could give you up to your boss. That's essentially what you said. Is that right?---Yes, that's right.

30 Now, of course throughout that period Mr Sirour himself was interested in expanding his operations, wasn't he?---Yes.

And a primary source from which he sought to expand those operations was getting subcontractor work from SNP. Yes?---Yes, he wanted to.

So how was he ever going to give you up without shooting himself in the foot?---I don't know.

40 Well, that was one of the explanations you gave as to why you as it were got caught up in the web, that you feared Mr Sirour would have a word to Mr Roche and tell you that he'd been giving you cash and now he had the proof because you put your signature to receiving some of that cash.---Yes, that's right.

It just doesn't make sense, does it? He couldn't do that without giving himself up.---Mr Sirour always, Tommy always bragged about how much money he had. He said he had a significant amount of work through other companies, you know, business would come and go so, you know, especially when he's turning around and threatening to walk all his guards off all locations if SNP dared try to remove any of his business. He sort of

acted in a manner that, you know, you win some, you lose some. I'll just move onto the next.

Look, you're sort of making things up as you go along I suggest, Mr McCreadie, aren't you? It's a posture you've adopted that you were caught up, you were essentially an honest man caught up and then you were trapped and had to go on with something. That's the picture you've attempted to paint of yourself, isn't it?---No, I'm not making this up as I go along.

10

All right. Because some of the dishonest that you engaged in wasn't even related to Mr Sirour, was it, and the line marking is one example of that? ---Yes.

He had no stake in that, did he?---No.

THE COMMISSIONER: Mr Givorshner, you have been authorised to appear for Mr Roche.

20 MR GIVORSHNER: Yes.

THE COMMISSIONER: The questions you're putting, how are they in the interests of Mr Roche?

MR GIVORSHNER: Well, one of the, we anticipate a possible interest Mr Roche has is to be criticised for some lack of oversight. That possibility exists. The fact that somebody is a sort of highly skilled deceiver goes some way to answering that kind of a criticism.

30 THE COMMISSIONER: Yes.

MR GIVORSHNER: But I've pretty much finished with that part of it.

THE COMMISSIONER: All right. Thank you.

MR GIVORSHNER: I want to take you now to some of the evidence you gave about the line marking. Now, initially the first deception in relation to the line marking was putting forward this man John, John Dirienzo, without disclosing to SNP that you and Emir were, as it were, splitting the proceeds of that three ways. Is that right?---Yes.

40

That was the first dishonesty. And then later on you began to say that you put forward a proposal that you didn't even need Mr Dirienzo. Is that right? ---That was because he, he resigned.

Well, I understand that you say he was no longer available but you say you then put another proposal to SNP about you and Emir doing the painting. Is that right?---Yes, that's right.

And are you saying that you put a proposal that you would do the painting that was going to be billed to the university and never have a qualified painter as part of that plan?---Yes.

See, you'd be aware, wouldn't you, that the major component of the contract between SNP and the university was the guarding, wasn't it?  
---Yes.

10 That was a service that was being provided that was worth many hundreds of thousands of dollars. You know that, don't you?---Yes.

You probably also know that the line marking was a much smaller component of the contract, wasn't it?---Yes.

That every three years it got a bit bigger than the other years because it would be a kind of refreshing of all the lines, but for that every third year it was, and I'm looking at the contract, so a figure somewhere in the high 30s to low 40s per year for fees for line marking.---Yes.

20

So it was obvious, wasn't it, that to, for you and Emir to do the painting without telling the university would have been a deception on the university, wouldn't it?---Sorry?

For you and Emir to simply take over the painting without notifying the university or renegotiating the contract would have been a deception on the university, wouldn't it?---Well, we advised the university that we were going to take up some of the line marking.

30 Just, but you say you got approval from that, telling the people at SNP there was going to be no qualified painter involved.---If you have a look at the proposal, I honestly thought that I'd sent the proposal straight to Tom, but I'd sent it to Phil Tansey and I'm assuming that Phil flagged that with Tom. As it was, you know, it clearly stated that Emir and I would undertake some of the painting duties and it came back that we were allowed to proceed.

You're saying that that proposal was to Mr Tansey. Is that right?---Yes.

40 Not to Mr Roche?---No. As I said, I thought I had sent it directly to Tom Roche but obviously as it's come through as evidence in this inquiry that I'd sent that email to Phil Tansey and asked for permission and also sought that if there were any questions about it, you know, if they could call me into the office and I could sit down and discuss further.

And the approval that you say that you got for it, that didn't come from Mr Roche either, did it?---I don't know. I, I don't know if, I don't know if Phil, I can't remember if Phil turned around and just said, you know what, guys, go for it.

I'm not asking you to speculate on what might have happened, I'm asking you as to what you know happened. Mr Roche wasn't asked for approval to do it and never gave his approval to do it, to you, did he?

THE COMMISSIONER: Well, he doesn't know that, does he?

THE WITNESS: Well, I don't know that.

10 MR GIVORSHNER: Well, yesterday, or rather on Friday, Commissioner, he said he can't remember whether it was. Okay. All right. You don't remember is your, is your position on that. Is that right?---That's right.

Okay. All right. You've been asked a lot of questions by both previous councils who cross-examined you about the extent of your deception. You have conceded most of it, but when the time came where SNP were moving to get rid of SIG as their subcontractor, you played a very active part in the way that that threat should be met, didn't you, in dealing with Mr Smith?  
---Yes.

20

Right. And the email that was, as it were, crafted, was in effect an email from the customer, the university, saying not only we don't want you to do this, but if you do this you will create great trouble for the customer. That's the import of that email, isn't it?---Yes.

And that was a deliberate scheme contrived essentially by you to protect your ongoing corrupt involvement in the activities there.---Yes, and as I said earlier, I was also concerned about the subcontractor that was flagged to come into the university.

30

Concerned in what way, that you wouldn't be in on the take anymore?---No, it was more, as I said, I, I'd never heard of this company so I rang people that had worked with SNP and worked at other companies and I asked them do you know these people. One person had said, you know, the, the, the rumour mill is that they're generous, another person had turned around to me and said, "Don't, don't get involved with them, be very careful, they're not the sort of people that you would ever want to associate with."

40 You're saying at that point you had the interests of SNP at the forefront of your mind when the jig was up, as it were. Is that what you're saying?  
---I wouldn't say I had, I mean let's face it, I've done a lot of wrong things and I'm being held accountable for that, but at the, at the same time I was deeply concerned about who was, who was coming in. Someone, someone turns around to you and says, you don't want to be, you don't want to really know these guys, you don't want to know who they are, you know, I was quite worried.

That's all, Commissioner.

THE COMMISSIONER: Thank you. Okay. We'll adjourn till 2 o'clock.

MR ENGLISH: Commissioner, sorry, I should have, before we adjourn, I've got Mr Balicevac's compulsory examination transcripts. Perhaps if they could be tendered now they can be released over the luncheon adjournment and he'll be called once questioning of Mr McCreadie's finished.

10 THE COMMISSIONER: Okay. I vacate the section 112 orders that I made in respect of that transcript.

**VARIATION OF A SUPPRESSION ORDER: COMMISSIONER VARIES THE SUPPRESSION ORDERS OVER EVIDENCE GIVEN BY EMIR BALICEVAC AT THE COMPULSORY EXAMINATIONS HELD ON 15 JUNE, 2018 AND 20 JUNE, 2018 SO AS TO PERMIT ACCESS TO THE TRANSCRIPTS OF THE COMPULSORY EXAMINATIONS TO AFFECTED PERSONS AND THEIR LEGAL REPRESENTATIVES.**

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THE COMMISSIONER: How many are there?

MR ENGLISH: There's two. The first is from 15 June, 2018, and the second is from 20 June, 2018. Would you like a copy, Commissioner?

THE COMMISSIONER: No, I'm fine, thanks. The transcript of Mr Balicevac's compulsory examination on 15 June, '18 will be marked Exhibit 30 81 and that for 20 June, '18 will be marked Exhibit 82.

**#EXH-81 – TRANSCRIPT OF COMPULSORY EXAMINATION OF EMIR BALICEVAC DATED 15 JUNE 2018**

**#EXH-82 – TRANSCRIPT OF COMPULSORY EXAMINATION OF EMIR BALICEVAC DATED 20 JUNE 2018**

40 MR ENGLISH: Thank you, Commissioner.

THE COMMISSIONER: Thank you.

**LUNCHEON ADJOURNMENT**

**[1.07pm]**