

GERDAPUB00631
20/02/2019

GERDA
pp 00631-00706

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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 WEDNESDAY 20 FEBRUARY, 2019

AT 9.30AM

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.

MR ENGLISH: Mr George Boutros up the back of the court, perhaps if he can be called and come to the witness box.

THE COMMISSIONER: Yes. Mr Boutros. Mr Boutros, will take an oath or an affirmation?

MR BOUTROS: Oath.

THE COMMISSIONER: On the Bible?

10

MR BOUTROS: On the Bible.

THE COMMISSIONER: Mr Boutros, just let me explain a few things to you as to your rights and obligations. You probably heard me explain them to your brother yesterday but I note you're not represented so I'll repeat them for you. As a witness, you're obliged to answer all questions truthfully and produce any item that I require you to produce during the course of your evidence. You can object to answering a question or
10 producing an item and the effect of any objection is that although you must still answer the question or produce the item, your answer or the item produced can't be used against you in any civil proceedings or, subject to one exception in your case, in any criminal proceedings. I'll come back to the exception in a moment but rather than you objecting to each question and then answering it, I can make a declaration under section 38 of the Act so that you get that protection without taking the objection.---Yes, please.

I'll make that in a moment but just bear this in mind, that there is an
20 exception to the use of your evidence in criminal proceedings and it's this, the declaration will not protect you or prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act and, most importantly, the offence of giving false or misleading evidence. The penalty that can be imposed for committing that very serious offence is imprisonment for up to five years, so it's a serious matter.---Yes.

You understand that?---Yes, I do understand.

Pursuant to section 38 of the Independent Commission Against Corruption Act 1988, I declare that all answers given by this witness and all documents
30 and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT 1988, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE
40 COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Mr English.

MR ENGLISH: Thank you. Can you just state your full name for the record, please.---Yeah. George Boutros (not transcribable) Boutros.

And I'm going to ask you some questions, Mr Boutros. If you can just listen to the question carefully and if you can answer it succinctly, I want to get you away as quickly as possible. Do you understand?---Yes, please go ahead.

10 You at one stage worked for a company, S International Group. Is that right?---Yes, I did.

Pardon?---Yes, I did.

When did you start working for S International Group?---Maybe 2011.

Did you work at Sydney University for S International Group?---Yes, from 2012 July.

20 Until when?---Until April once you guys came to the university and then I signed for SNP.

Okay. How did you get the job with SIG?---To be honest, I can't remember, but - - -

Was it through Tommy?---Yeah, through, through Tommy, of course, yeah, yeah, he's the owner of the company so I worked with Tommy, but first I worked in somewhere in Redfern, some of the commercial housing.

30 All right. Just hold on a sec. So was it the case that you met Tommy and then after you met Tommy you obtained a job with SIG, or did you meet Tommy for the first time once you became employed by SIG?---Yeah, once I went to the office I met Tommy there.

Okay. So was your evidence just that you started at the university in 2012, was it?---2012, July.

40 And there were occasions, were there not, when you would perform shifts where you used the name and licence number of a different security guard? ---Yes, I did.

And when was the first time, do you recall, doing that?---End of 2015 maybe. Maybe, I'm not quite sure, but I think so.

Okay. And where did you get the idea to use another guard's name and licence number to perform a shift?---Yeah, I was, I was kind of working, doing like, covering a team leader this day and I get the call from the office, SIG office, telling me there was a shift for like Badham lock-up or something. This job is like - - -

That's a library, right?---It's one of the libraries, yeah, it's a lock-up. This job will take like, 20 minutes or something. Apparently the guard who is supposed to come, he cancelled the last minute and somebody has to do the job, so I got the call from I think Lynn in the office telling me, "Please, George, do the job because I have no one to do it and sign the name and you'll get paid for it."

10 Okay. And so you signed in under your own hand the name of the other guard and you put down the other guard's licence number, did you?---I don't, I don't remember the licence number because most of the time if I did I don't recall any of the licence number, I do just the name, put the name as she told me and I think she send the money with a person who's supposed to come.

20 Okay. And did you say, why can't I sign in under my own name to do that shift, Lynn?---She told me like, the same question I was asking, like, which she goes to me, "Because it's like, kind of like you're doing another job and you can't put your name twice."

So you said that occurred for the first time in the end of 2015.---Yeah.

30 From that time onwards, was that something you repeated, that is signing in under someone else's name and licence number?---Doing the thing again, no, like, I mean like, overlap at the same period, no. I remember another occasion they need somebody to cover extra shifts. He have no one. He goes to me, okay, but it's not overlapping, it's like another shift, another shift. Like for example I did like my four days, he need me to do like the, like, three more days or something, so he told me, "Okay, you can do 'em, but I think because of the number of hours you did," like, I did like, for example, 60 hours or 50 hours, you're not supposed to work more than these hours, "You will do the work and you put different name." So I thought as long as I'm working, that's fine, I already provide the job, so yeah.

All right. So were there occasions when you worked at the university for a long period of time without a break?---Could be 24 hours, 36, 36 hours max.

40 And so that's without going home? You mean, you've been on campus for 36 hours straight?---Yes.

Did you need to sleep during an extended period like that?---Yeah. Normally in the break, like, if I'm doing, the problem is, you don't have, okay, you don't have CMS operators, you don't have, like, enough team leader. I'm talking about, like, SIG or SNP. So what happen, if one put off, he's not coming to work, there is no other option, the place can't run without team leader or CMS operator. So you would have to do the job. So I can't say no. If you say no, you're not going to keep the job, you know what I mean?

When you say you have to do the job, did someone tell you, you have to do it?---Oh, yeah, of course, you have to do this because, okay, you have to understand one thing, I'm not working, like, direct with SNP or working directly with the government so I can't, like, say no, I object or any of these things. No, you have no choice. You work for a subcontractor who work for a company and this company work for the university so you have to be, like, you have to please everyone, you know what I mean?

10 What if you were to say no to a request to work - - -?---What if I say no - - -

Just let me ask the question. If you were to say no to a request to work an extended shift, what do you think might have happened to you?---Well, I'm just a number. You have to understand that, I'm a number there. You know what I mean, like, one, two, whatever, yeah, at the beginning they might, like, okay, take it easy on me until he find a replacement then, bang, go, we don't need you again.

20 Now, it's the case, isn't it, that at the end of each week, you'd send through a personal time sheet to the office at SIG?---Yes.

And that would identify the amount of shifts that you said you were entitled to be paid for?---Yes and the names as well, I put the names of the people, yeah.

Can we have Exhibit 49, page 58 on the screen, please. You see this is an email from you to lynn@sinternationalgroup.com?---Yes.

30 You said, "Hours I worked last week," and you've sent it on Sunday, 30 October, 2016. Do you see that?---Yes.

Now, you've identified some other names on that document. On Tuesday, Nader Gad, on Friday Isaac Yanni, Saturday Mina Azer and Sunday Mina Azer and again Isaac Yanni. Do you see that?---Yep.

40 Why is it that you said you were working under those names?---Because I cover the extra shifts and I can't do the limit for more than 60 hours, I think. So you'd have to do the job and at the same time you have to provide different names because - - -

Sorry. It was probably a bad question from me. Look at Tuesday, you said under Nader Gad. How was it that you knew you were covering Nader Gad's shift?---No, it's not covering Nader Gad's shift. So this shift probably was a CMS operator. They don't have a CMS operator so we have a certain people doing CMS operators, okay. So we have, and if you're doing team leader, you have to select name of the team leader if you doing, it's not even these names, you know? It's coming from, from the office, you know what I mean?

But that's what I'm trying to get to. Where did you find the name Nader Gad to use for Tuesday?---Well, this is coming from the office, you use these names, you know what I mean? Like, for example, CMS operators, there's, like, six CMS operators, okay. If I'm covering another CMS operator, I can't put a patrol office name. Okay, I have to put a CMS operator name. If I'm doing team leader and I did double team leader for example, day and night, I have to put another team leader name.

10 But so, just focussing on this Tuesday. You said you have to put another CMS operator name, is that right?---Yes. Because 5.30 is CMS operator.

Were you told specifically to use the name Nader Gad or were you given list and you could choose it? Can you just assist the Commission that way, please.---Yep. Probably I was told to put Nader Gad.

And who would have told you that?---I can't remember. If this is before Frank, that would be Lynn. I, I can't remember who took over because you get the orders from whoever, like, in, in charge of the roster.

20

So, and around this time, do you remember that to be Frank or Lynn?---To be honest, I can't remember. I was, like, because at 30 October, I, I, I think it was Lynn. I can't, to be honest, I can't remember.

So just stepping back from that specific example- -?---Or might be Frank, might be.

30 Stepping back from that specific example, is it your evidence that you were told which names to use for particular shifts that is not your own name or was there some other means by which you determined which name to use? ---No, I didn't select the names, the names on my own, you know what I mean? You get the, like, the, the shifts you're covering extra, for example, if I'm doing, like, night shift team leader and the day after I have to do CMS operator because no one turn up. Whoever call you to cover the shift, he will provide you with a name.

Thank you. If you look at Sunday, please.---Yes.

40 Do you see how you've identified two Sunday shifts - - -?---Yes.

- - - from 5.00 to 1300?---Yep.

One under Mina Azer and one under Isaac Yanni?---Yep.

Those shifts are concurrent, they're happening at the same time, you understand?---Yep.

Do you recall working those particular shifts on that Sunday?---Look, all the shifts I've done 100 per cent, but if there's overlap I were there, you know what I mean, like, like all these hours I make, but for the overlap, the thing is, when I came from overseas maybe about this time, about this time in October, not October, I came late September 2016, when I came back from overseas I find like, okay, for example the patrol officer or, like, sorry, like lock-up guards, if no one turn up, you do the job, but they still get paid for the second one. Unlock the same, yes.

10 Well, here the university wants two guards from Sunday from 5.00 to 1300, right?---Yeah.

And you're to be paid for one of those shifts in full and then you're to be paid for half of the other shift, splitting it with Frank. Is that right?---Yep.

So the university's only getting one guard to perform those two shifts. Correct?---No. Oh, yeah, correct. I tell you - - -

Just hang on.---Okay.

20

So it's not getting what it paid for. Correct?---(No Audible Reply)

The university pays for the guards and one guard's not turning up. Correct? ---But I did the job.

Yes, but you're doing the job of two guards.---Yeah, but why didn't get the guard to cover the shift, you know what I mean? Like, it's, the problem is, like, okay, I stuck in the middle, I'm already doing the job and I have to do extra, what do you call it, tasks, I have to do extra tasks because no one turn up, you know what I mean, it's not - - -

30

THE COMMISSIONER: But I think the point that Mr English is making to you is that the university didn't get what it paid for. It thought it was paying for two guards, in fact it was just paying for one, that is you.---Yeah, understand, I totally understand this point.

And you agree with that, don't you?---Sorry?

40 You agree with that.---Yeah, I agree with him, I totally understanding what he's coming from, but the thing is, I want to explain my, my point as well, you know what I mean. Look at me. I'm coming to work as cheap labour, nobody give me anything, no rights, nothing, that's all, you know what I mean, like. Award rate, the government said the award rate is like \$23 or something day shift, night shift \$30, weekend you get \$45 in Sunday, Saturday 33. I'm getting the flat rate \$20, \$22, paying tax off it, like \$4 or something, it doesn't matter day or night, and then after that I'm covering extra shifts because nobody turn up. Look, I'm not trying to justify the wrong, I did, like, it's wrong, what I did is wrong, but I'm telling you where

I'm coming from, you know what I mean. I'm doing all these things, was underpaid, and then at the end I do extra shift for somebody who didn't turn up and either way I'll have to do it.

MR ENGLISH: All right. Just hold on for a moment. You said you were paying tax on the flat rate.---100 per cent, yeah, I pay tax, you can check my
- - -

10 So you were making a contribution towards your own income tax directly to the ATO, were you?---Yeah, I get paid 38 hours every, every week. I've asked for more, because I do more hours as you can see, and he goes to me, "No, we can't, because we have to pay like this superannuation and all this stuff."

Just hold on one moment.---Yes.

Were you paid in cash by Tommy?---I get 38 hours tax.

20 Okay. So you had 38 hours paid where you understood your tax was withheld.---Yes.

And then but the balance, so here you've claimed 122 hours - - -?---Yep.

- - - so the balance is paid to you in cash. Is that right?---Yes.

30 And there wasn't tax withheld in relation to the balance to your understanding, was there?---No, from my understanding I signed the paper for him, I signed everything, but this what happened. He's giving me the 38 and then the rest he's sending in an envelope.

All right. If we can go to Exhibit 76, page 19, please.---Yep.

So here's, this is a document that originally came from the SIG office, you know, SIG office.---Yeah, yeah.

It's just been slightly amended to put it in chronological format from Monday to Sunday.---Yeah.

40 You can see that it correlates with your claim, 122 hours. Do you see that? ---Yep, I see.

And you can see there's a different colour code for where you're either signed in under your own name or where you've signed in under someone else's name. Do you see that?---Yes.

And just go over to Exhibit 76, page 20, please. This is just a different layout of that same spreadsheet that shows the shifts that have been

performed by their hour duration each day. So you can see, if we look on the 28th there's a two-hour overlap. Do you see that?---Yep.

Between shifts.---Yep.

And that that Fisher Library shift on the 30th that I just asked you some questions about, there's some overlap there. Do you see that?---Yep, I can see that.

10 You actually performed that entire shift but this just shows you've only been paid for half of the Isaac Yanni shift, do you understand?---Yep.

So I just want to raise with you, if you look at, from the 28th – oh, no, let's go back a step. If you start at the 24th, you appear to have worked a 24 hour shift that was essentially with no break. You've done two shifts overlapping, well not overlapping, consecutively. Do you see that?---Yes, I can see.

20 And your evidence is you would have performed both those shifts and been on campus for 24 hours straight?---A hundred per cent. You can account history from the university, you will find me signing everywhere with my account, so I was there.

And then if we go down to the 28th, you can see you start at 6 o'clock and you work through until 5.00 in the morning.---Yep.

30 See that? Actually, you work through to 6.00, if you go down to the 29th because it continues over and the you work another full 24 hours and then you go in to the next day. You have five hours' break and you finish off the, the shift at 5.00 in the morning. It seems there that you've worked 72 hours with a five hour break.---Which one? Can I get copy of my time sheet because I don't understand if, the thing, is there any chance I can get it?

Yes, sure. We go back to that in a - - -?---I think I have a copy here.

I don't know if you've got it in front of you but I have it brought back on the screen.---Please, yes because, like, when I look at this, thing, I - - -

40 Sure. So it's Exhibit 40, volume 5, 58. So it's across Friday, Saturday, Sunday. Do you see that? You start Friday 0530 and you finish at according to your personal time sheet, at 0600, then you start on Saturday at 0600 and you finish Saturday at 0530 and you start Sunday at 0500, you finish it at 1300 and then you start again at 1730 to 0530. Do you see that? ---Yes, I can see it, yes.

So it appears in 72 hours, you've had a four and a half hour break, would you agree?---Yes.

And is your evidence that you worked all those shifts at all times on the campus?---A hundred per cent.

And how was it you stayed awake?---Oh, the thing is, like, okay, you're not supposed to work, like, you have the break anyway, like, every, like, 12 hours, you are, you will take it for, like, two or two and a half hours break. So I get two hours break because, look, most of the shifts, you can see it's a power shut down for almost 24 hours, power shut down all you do, only just sitting inside the building and go every, like, maybe half an hour walk
10 around the building, make sure all there because when the power shut down, they lost the power to the doors so just to patrol every half an hour, one hour, walk around the building, make sure everything is secured and, and that's it. So mostly, like, it's not a hard job. I was, like, mainly 24 hours sitting in a building and if I need a break, somebody can cover it maybe for, like, two hours, I can sleep.

Are you falling asleep on the job at all there, for example, at the power shutdown? You said you're sitting in a chair.---I'll be honest with you, I was just, like, on, on the phone, watching movies or whatever. Like, you
20 know, you know, killing the time because it's not, look, I'm not, like, walking around doing patrols, just sitting in the building, it's a power shutdown, yeah.

Can you go to, please, exhibit 42, page 101. Here's a time sheet from you to info@sinternationalgroup, you've sent it in on Monday, 18 December, 2017 for the week prior. Do you see?---Yep, I can see.

You've signed in – I withdraw that. You've identified that you've signed in using the name Rob Basselly on five days. See that?---Yep, yep.
30

And then you talk on Saturday/Sunday about splitting shifts between you and Frank.---Yeah.

And your total for the week is 148 hours.---Yep.

Did you have some sort of agreement with Frank to split hours?---It's not agreement to split hours, in my compulsory thing I did before I spoke about it. What the deal is, Frank's my friend, so what happened, he's like, I spoke about it before, he's like kind of heavy gambler, okay. He did, like, Frank
40 used to make heaps money, so he make like couple of thousand or whatever, he can go to the casino or like on his app or something, smash the money in a second. So after that he used to come and ask me, because I'm his friend, like, "Oh, can you just give me a couple of hundred?" Okay. So when we used to work together, if he covering with me, we get, I goes to him, "I will save half of the money for you so later on during the week, if like, you lost the money," he used to even like, seduce some other people to go gambling with him, like Gol, he used to take Gol with him in the club, they just get the payment \$2,000, and these people have family, like Gol have a family,

go to the club, the casino, whatever, put the money in a machine, lose it in a second and then cry after. So what happened, I told him, "Look, if you work with me I will have half of your money, like, save it for you, during the week, instead of taking from my own money I will pay you your money, like I will pay you from the money I saved for you." So that was the sort of the agreement we did together.

10 But why are you doing an agreement when you're completing the shift, why split the money with Frank?---No, it's not, okay. He's covering with me some of the shifts, not all of them, some of the shifts. Like for example if it's Sundays he used to come cover with me the shifts, if we're covering like library or something, so Sundays he used to come. If he doing say shift for example Saturday, he can stay with me till the morning and then he can go, if it's his last shift in a rotation. So if he covering with me I save for him. If nobody turn up and I cover the extra shift, same like the 100 guys working in the campus, if anyone do extra job he used to get paid for it.

20 But it seems you're, this agreement you had with Frank was predominantly in relation to the library, right?---Because this is the only thing I was -- okay. My job is, I do five days in the campus like a CCTV operator, okay.

Yes.---And then in the weekend, this is the only time I can do the extra shift. So the only time I do the extra shift was in a weekend. The only thing available in the weekend, it's either team leader, you can find me in some other, like, okay, working with this one it's like for example I was covering library, if you check the other payslips or whatever you'll find me covering the weekend as a team leader because I was covering team leader sometimes.

30 So week by week you'd do extra work in the library on the weekends, would you?---Not always library. Most of the time was library but you can check like, which one is this one. I think so December, if you have a look at the week after, because I remember that was like a kind of Christmastime and no one wants to work, so I did team leader in the weekend, so no library. So not always, it's not always library, sometimes library, sometimes team leader, CMS operator, whatever I have I will do it.

40 All right. Well, let's go to Exhibit 77, page 15, please. Now, this is that chronological format of the SIG document. Remember I showed you before?---Yeah.

Now, it totals you up as 148 hours which matches your claim, that's your pay for the week, and the notes indicate that you're to be paid 38 hours on book from now on. Do you recall that, this is December 2017.---Yes.

Was it around that time that you started to get your 38 hours properly on the books with tax?---He used to pay me 20 hours before and I have a big argument with him. I goes to him, "Look, like, I'm getting a lot of money

and just give me like, most of it on tax.” He’s refusing and all this stuff and then I told him I’m not coming back because I had enough and then he’s, “Okay. Maximum I can give you is 38 hours.” So he gave me the 38 hours, maybe a couple of weeks before this time.

Who’s him when you say - - -?---Tommy.

We’ll just go to Exhibit 77, page 16, please. Here’s this different layout of the spreadsheet we just saw.---Yeah.

10

So on Monday it looks like you’re performing an unlock duty before you start your CMS shift. Do you see that?---Yes, I did, yeah.

What’s an unlock duty?---Unlock duty. Okay. This unlock duty start from 6 o’clock in the morning till 10.00, and the reason (not transcribable) Rob Basselly is not because of me, because when I took the job from the previous guard she was doing the same job what I did after which is like CMS, second CMS operator, which is checking the CCTV from 9 o’clock till 5.00pm, but the other job is overlapping because the other job which is unlocking job start from 6.00 till 10.00, so she got advised, by I don’t know whom, because when I took the job I didn’t ask her, to use different name because this one-hour overlap. I spoke to them after if you can change the timing I can start at 5 o’clock to avoid this overlap and using different name and then they told me, oh, no, it’s going to be a big hassle, we can’t.

20

How long did it take you to do those unlocking tasks?---Oh, 20 minutes.

How long?---20 minutes.

30 And you were paid for four hours there?---Oh, this is the minimum pay for it, it’s not me who (not transcribable).

The on the Monday, you’re paid for an overlapping or two overlapping Fisher Library shifts. You see that?---On Monday?

Yes.---Let me get my - - -

Do you want to go back to your time sheet?---Yeah, please because - - -

40 That is Exhibit 42, page 101. Do you know what may have happened here? So it’s not in your time sheet. If we go to Exhibit 77, page 15, it’s just been assigned to you, I think, by SIG, that shift.---Sorry, what was that?

Just have a look at this. Do you see those two names were Jawad Al Momani and Eslam Ali. Do you see those names on Monday?---Yeah.

Do you see the second the third row?---Yep.

So those names have been assigned to you by SIG. Is it your evidence that you didn't actually perform that shift at all? Because it doesn't appear that you're claiming from it in your personal time sheet.---Well, whatever in my time sheet, this, I can accept, like, anything else, sorry, I have no idea about it.

So – I withdraw that. So if you see in Friday, the 15th, you were paid for two library shifts that overlapped. Do you see that, under Magdy Ali and Sibel Isli?---Just a second.

10

Have you got your time sheet there or do you want it brought on the screen?---Yeah, on the screen better, yeah, please.

Exhibit 42, page 101. Thank you. So Friday, you see that, "Library from 1700 to 0600 and then 1700 until 0900, between me and Frank, eight hours." Do you see that?---Yep, yep.

20

So there you are making a claim yourself, to be paid for those two library shifts, which are concurrent, do you agree?---Yes, I agree but Frank was working with me.

Is that your evidence, Frank was there too, was he?---Yeah. As I mentioned earlier, like, I said, like, if you find, like, something between me and Frank, most of the time he work with me and I saved the money for him.

30

Does the same apply to the Sunday and the Saturday shifts in respect of the library?---Look, in this, this period, like, the December period, like, there is, like, if you check that people who worked, you will find minimum or each one of us, like, you will find myself and my brother, Salam, Gol, whoever working this period, he did, like, at least, like, 120/130 hours. Reason is, a lot of people, like, who work direct with SNP, they call for, like, their holidays or, like, annual leave or whatever in this time, so the thing is, it's a limited, no one to covers the shifts so you have to come, everyone has to come. So you can find people in this period doing, like, 36 hours in row, maybe 48 hours.

Well, but is your evidence that Frank would be off campus sometimes, gambling?---Sorry, I didn't - - -

40

Frank would sometimes be off campus gambling?---Be off campus gambling?

Yes. You said he went to the club and put money into the machine and it was all gone.---No, no. Okay, I'm talking about the situation on his gambling life. The guy is, like, for example, like, when he get the payment, like, if he get the payment, 2,000/3,000, he can go to the casino, even if he get the envelope from (not transcribable), they used to go together and use him to put the money in the machine and they both lose the money.

All right. Mr Boutros, I just want to focus on these shifts.---Yes, yes, no, I didn't say he leave the campus to gamble.

All right. Do you actually recall Frank performing that second shift with you on the Friday, Saturday and Sunday at the library?

I remember in this period Christmastime, everyone was working, like, almost 24/7. I remember Frank worked with me in this time.

10

Okay. Well, your claim for this week is for 148 hours, right?---I worked, yeah.

There's I think 168 hours in a week.---Yes.

So you're saying you worked all those hours?---Okay. It's 148, if you deduct what Frank took off me, it could be like around 20 hours or 30 hours, it would be like 120 hours out of the 160 - - -

20 No, I think you've been paid for 148 hours.---Yeah, this what I get from SIG.

Yes. So they've paid you for everything other than 20 hours during the week. You say that's fair?---Okay. The thing is, as I said, I get half of the thing, I know it's confusing but this what happened, this what happened. I save for him his money, half of his money. So if you deduct half of the hours he work with me you will find me getting only 120 hours. Yes, I used to get the payment from Tommy but I gave him this payment throughout the week.

30

All right. If we can go to Exhibit 44, page 55, please. This is your time sheet from Monday, 16 April, 2018.---Yep.

And you can see on Friday you claim for an overlapping shift again at the library between you and Frank.---Yes.

Otherwise there's some unlocking tasks under Rob Basselly that you've claimed.---Yes.

40 If we go to Exhibit 78, page 14, please. Now, you can see SIG's paid you for the 102 hours that you've claimed for this week.---Yep.

And there's a note in the schedule there, "Not on book from this week." ---Yeah.

Do you know what that - - -?---Yeah, I was going to SNP because the thing is, I was supposed to start in SNP was I think the 20 or 23 of April, so I just reminded them just to pay me, because the thing is the deal with SNP, if you

work with SNP you get the overtime with SIG, so I notify them to pay me the extra hours with SIG and I'm going to get paid my 40 hours or 48 hours with SNP.

Now, if we go to Exhibit 78, page 15. Just firstly looking at the 9th through to the 13th, see how you're paid for the Rob Basselly shift but then your CMS shift doesn't start until 5 o'clock?---Yeah.

10 So what, would you come in in the mornings and do the locking and the unlocking tasks for 20 minutes each of those five days?---I have to, but sometimes like the, okay, it's happened like a few times that the guard in the morning, I ask him to cover me. It's happened like during two weeks as well, like, two full weeks when my wife give birth in the hospital, I was unable to come and the guard helped me to be honest because I have no other income, I was with SIG, if you don't work you don't get paid money, so he covered me for these two weeks. You will find them, it's in June 2017.

20 Well, this is April - - -?---No, no, I'm talking now this one I used to come except if I'm doing like a, okay, if it's like Friday or something and I have like a heavy day, because the rest of the day that's okay for me because I'm doing like half an hour and then after that I will do the eight hours which is easy for me, but for the Friday, because I know that I'm going to continue till the morning, so in this case I might request from the guy to help me out with this day so he can like do the unlocking duty for me.

All right. Then if you have a look at 13 April - - -?---Yes.

30 - - - this has you getting paid for your CMS shift - - -?---Yeah.

- - - which overlaps with two Fisher Library additional shifts you've claimed for.

It's not two, it's overlapped with one, because the other one somebody was working with me.

Well, it says, "Share with Frank."---Yes.

40 Well, is that honest, to be doing your CMS shift and getting paid for a library shift at the same time?---No, what happened is, I'm the only CMS, I'm the only one doing the CCTV.

But you're not allowed to, yes, you're not allowed to leave the room then, correct?---No, no. I'm not allowed to leave the room.

So you can't be in the Fisher Library then, performing a guarding shift, correct?---I finish my job and I go. The thing is, I have, like, the email, finish these footages, like, for example if there any, like, something happen

at the campus, somebody have a car accident, door broken or something, I do the job.

So there's at least five hours where there's no guarding in Fisher Library, is that right?---It's not no guard because there is two other guards there so the library already have two guards in it.

10 Well, no, there's not two guards, is there, sir. There's two names that have been used in the spreadsheet to say that there's guarding being performed but you've been paid in respect of both those shifts, one of which you've shared with Frank. So do you really know if there were any guards in the library on that occasion?---Well, the, the library, can, to be honest with you, like, if you think of how come it's going to be, like, no guard in the library, there's supposed to be, like, three guard, how come it's going to be running without no guards at all? Two guards at least.

20 Well, there were occasions when there certainly weren't sufficient guard numbers in the library and you're aware of that, aren't you?---No, I'm not aware of that, sorry.

You're not aware of that. And Sunday as well, you've been paid for an overlapping library shift. Do you say Frank showed up to assist you in that overlapping shift?---Look, in this week, I can't remember whether he turned up or not. I'll be honest, I remember December because in December, like, this is, like, everyone was coming to work because a lot of people take the days off so everyone of us used to go and work in this time.

30 And do you say that it was honest to be paid in circumstances where you were performing overlapping shifts?---Well, I'll be honest with you, okay, I need to be honest with you, if I - - -

You are under oath, so yes.---Yeah, yep. If you find, like, a hundred guards doing the same thing, like, imagine the Sydney University have, like a, for example, a 110 guards, if 100 of them doing the same thing, I won't be the opposite. I want to be the, like, I don't know, you, you guys, like, everyone doing extra job and getting paid for it so I'm, I'm the same, like that, you know what I mean?

40 So would you agree, if everyone else is doing it, it doesn't – I withdraw that. It's dishonest but everyone else is doing it, it doesn't matter, is that your evidence?---No, it's not my evidence. Like, wrong is wrong and right is right but the thing is, as I mentioned earlier was, was it, like, fair for them, for these companies to pay me, like, in a weekend, coming to work on the weekend, \$20 or \$22 when I, I will get from the government to pay \$45? Is that fair from them?

So you've got a grievance that you weren't paid for proper overtime by SIG, the proper overtime rates?---It's not about SIG. I will be honest with you as

well, if you, if you listen to the other, like, with my respect, the other lawyers were talking or the other people doing the, the evidence, they were telling you, like, okay, at SNP, for example, decided to save budget. So decided to save budget, how you going to decide where to set the budget from? Are you going to decide to set the budget from the university? No. You're still getting paid, for example, the two million or three million from the university, okay - - -

10 THE COMMISSIONER: How does that justify in any way stealing from the university?--No, I'm not justifying steal, to be stealing or not. My, my, from my, from my own perspective, what I'm doing, I just cover extra, like, like, for example I did, okay, I supposed to do a couple of, for example, like, close six doors, okay, there is nobody came up to do the job. So I have two options, whether like it to not, to do the other job which is the close 12 more doors and not get paid for it or I get, like, for example, half of it? This happens sometimes.

20 MR ENGLISH: And on those occasions where you're getting paid for an overlapping shift, if it's submitted against you that you've obtained payment for those shifts pursuant to a deception practiced against SNP or the university, what would you say?--Oh, well, look, as I said before, I agree. I did something wrong. I'm not, like, I'm not trying to defend myself but if you look at that whole situation, if you look at the whole situation, like, I've got nothing else I can do. I have to do the job anyway. They send someone or not, I have to do the job.

That's the examination, Commissioner.

30 THE COMMISSIONER: Thank you. Any questions from anyone else?

MR COLEMAN: No, thank you, Commissioner.

THE COMMISSIONER: Is there any reason why this witness shouldn't be excused?

MR ENGLISH: No, Commissioner.

40 THE COMMISSIONER: Thank you, Mr Boutros. You're free to go and you're excused from your summons.---Thank you, sir. Thanks very much.

THE WITNESS EXCUSED

[10.14am]

MR ENGLISH: We can continue with Mr Balicevac. We've reached a position where other parties, legal representatives want to ask him questions. I've just got some matters to put briefly. It won't take more than five minutes, if I can do that.

THE COMMISSIONER: That's okay, yes. Come forward. I'd like to have him affirmed again, thanks. I'm going to ask you to take an affirmation again.

MR BALICEVAC: Yeah.

THE COMMISSIONER: Mr Balicevac, the section 38 declaration that I made when you commenced your evidence continues.---Yes.

So you have that protection provided you tell the truth.

10 MR ENGLISH: Now, Mr Balicevac, it may be submitted against you that you've given knowingly false evidence to this Commission. I want to tell you in what respects that may occur and then ask if you've got anything to say to that.---Yeah, go ahead.

20 Firstly it may be that it may be submitted against you that you gave false evidence in relation to the pinball machine, including as to four matters, those being those. Firstly, your intentions when you bought the machine, secondly, your understanding of Mr Smith's knowledge as to why you bought it, thirdly, Mr Frank Lu's involvement in the purchase of the machine and fourthly, the circumstances by which the machine was provided to and retrieved from Dennis Smith. What do you say about that?
---What do you mean, what do I say about this?

Do you agree with the proposition that you gave false evidence in relation to any of those matters?---They are not false.

30 Okay. Secondly it may be submitted against you that you gave knowingly false evidence in relation to your knowledge of the circumstances by which your Apple iPhone was restored to its factory settings in the period between 15 June and 20 June, 2018. What do you say about that?---But, Mr English, you're trying to say I done this or, or can you be more specific, please?

Well, firstly I'm saying you gave false evidence about your knowledge as to how that occurred, that is that the phone was reset to its factory settings.
---No, I don't know.

40 And specifically it might also be submitted against you that the phone was restored to its factory settings in that period either by you or by someone else on your instruction and that you did this with the intention of delaying or obstructing this Commission's investigation. What do you say about that?---I disagree with these allegations. They are totally false and untrue.

Okay. And then lastly it may be submitted against you that in your compulsory examination on 20 June, 2018, you gave deliberately misleading evidence when you were asked about your social relationship with Dennis Smith, that is by asserting that you had only been to his house once, when you later said it was four to five times. What do you say about that?---When I say once, when I was with my family, okay, when I went

down with the – you asked me in total was four or five times, okay.
Socially it was only once down there to Gerringong.

Thank you, Commissioner. That's all I wanted to raise.

THE COMMISSIONER: Thank you. Mr Coleman.

MR COLEMAN: I have no questions.

10 THE COMMISSIONER: Sorry?

MR COLEMAN: I'm sorry. I have no questions.

THE COMMISSIONER: No questions. Does anybody?

MR BENDER: No, Commissioner.

MR GIVORSHNER: No, Commissioner.

20 THE COMMISSIONER: Somebody does.

MR DEAN: I do. Mr Balicevac.---Yes, please.

My name is Dean. I appear for Mr Sirour.---Yes.

When did you first work as a security guard?---As a security guard?

Yes, in any job.---2007 I believe.

30 And it was in 2010 you commenced at Sydney University?---Yes, that's correct.

And that was with a company called IPS?---Yes.

And SIG didn't come to Sydney University until 2013?---I believe so something around that, I'm not exactly correct about the date.

Maybe 2012, maybe 2013?---I would say so, yes. There is dates and documents.

40

And at that time IPS left the campus, IPS stopped working at the campus. Is that, that's correct?---Yeah. IPS was removed off-site.

Yes.---And SIG, like, took over, whatever was IPS covering, SIG took, took in place.

And you came to work for SNP for six months.---Yeah, yeah, something like this, yes.

Yes. But then in 2013 you left to join SIG.---Yes, that's correct.

And one of the reasons you joined SIG was you wanted to perform overtime?---Absolutely right.

10 So to get an idea, you wanted to work 60 hours or more a week. Is that the case?---At that, Mr Dean, at that time I could not work for SNP overtime. I mean at that time was sort of as far as I remember policy if you are SNP your overtime has to go through SNP. If you are, you couldn't do SIG like getting shift through SIG. Then when I resigned from SNP they put a policy when you are SNP your overtime could go through SIG.

But you joined SIG?---Yes, that's right and it was basically, I couldn't go back and forth, like, it, it's not, it would feel funny to.

20 Now it would be fair to say, in your view, that Mr Sirour doesn't know how to manage security guards?---He does, when you say he doesn't know how to manage, well, in one way he's the boss, so he should know, in my opinion, Mr Dean.

He should know but he's not very good at managing security guards, is he? ---He would be more, I think the, with the guarding was, yeah, probably girls in the officer were more in with the guards than Tommy.

30 Now, when you were working for SIG, did you help other guards at Sydney University to do their jobs?---When you say help, Mr Dean, can you explain?

You'd give them advice on how to do their jobs properly?---Well, there would be a training in place, yes. Like, when they come on-site, we would need to train them, take them around the site, yes. I would say so, yes.

And you would help with that?---Well, if I can on the team, yes.

40 Was it the case you were at SIG until December, 2015?---Yes, that's right. 16th of December, I joined SNP, or 15, I'm not sure.

And during that time, you were responsible for helping other SIG guards make sure they complied with the rules and regulations of Sydney University, weren't you?---Mr Dean, when you say responsible, like, not just SIG in general, I'm talking, like, with all guards.

With all guards?---Well, if, again, I wasn't actually a site manager, I was 2IC. So in this case, yes, I would be instructed and, like, if there is a job,

this need to be done and this one, are you talking when I joined SNP, is that right?

No, I'm talking when you were with SIG.---No, when I was SIG, Tommy sometimes would, like, there would be some guards having issues, or, like, let's say there will be a fight between the guards. Sometimes this will be a mention, yes.

10 And Tommy would ask you to help with that?---Tommy would, Tommy would sometimes ask me please talk to this guard, like, he's causing a fight between other guards. Unfortunately, this sort of environment, there is a lot of employees involved, guards would, what do you call, clash with each other or they would, I don't know, for some reason fight between each other.

Yes. And Mr Sirour was concerned, particularly, that his guards wouldn't clash with SNP guards, that was the case, wasn't it?---Yes. He, he was actually, yes. He was concerned about this too, yes.

20 He wanted to make sure that SNP was happy with its guards?---Yes. And in several occasions, Mr Dean, when Tommy's guard would be in clash with SNP direct employee, usually the SIG guard will lose the fight. When I say lose the fight, I don't know how to explain. It was easy to get rid of SIG guard than SNP guard in what I understood, in the years I been at the uni.

So when you went to work for SNP, Mr Sirour wanted you to continue to help his guards, didn't he?---He, yes. He did ask, he says, Emir, please look after them. Like, if someone doing the wrong thing, usually he would say you tell me and I will deal with them.

30 Thank you. And that was part of the reason why he's paid you a weekly amount when you joined SNP?---Well, let's say I could agree on this, yes.

Now, while you worked for SIG you came to know Ms Lynn Li?---Yes, in 2013 I believe when I, yes, I started to, I started like sort of knowing her but not, I know who is she but not as a social or friends or something like this.

No, but during the time you were with SIG you developed a good working relationship with her, didn't you?---It has built down the track, yes.

40 And it would be fair to say that you trust her, or you did trust her?---Could say, yes, yes.

And that she trusted you?---I believe so could, yes, but I'm not, what, what hers view was probably I don't know much because we couldn't see each other much when I moved in SNP because the reason is for this I was more stuck in the office in the uni.

But on your evidence on a number of occasions she lent you money.---Yes, Mr Dean.

Now, other than paying back those loan amounts, did you ever give Ms Li money?---Mr Dean, I think in one occasion, but I'm not 100 per cent sure.

10 Now, you gave evidence a couple of days ago that it was Mr Sirour's idea to fill ghost names on the SIG time sheets for shifts that were not performed. I want to suggest that that evidence was untrue.---No, Mr Dean, unfortunately it's true.

It was the case, wasn't it, that it was your idea to use other guards' names? ---No, it wasn't my idea.

And it was your idea to use those other guards' names so you could claim for work that you didn't perform?---No. This all started, Mr Dean, when he couldn't cover the shifts and he started falling behind with coverage.

20 It was the case that you asked Ms Li for other guards' names that you could use, wasn't it?---Well, they, they were the, SIG office, Ms Li was the one who was providing these names.

And I want to suggest that you hid that request from Mr Sirour.---Sorry, again, Mr Dean, can you repeat?

You deliberately, you requested other guards' names from Ms Li. You agree with that?---No, I don't agree on this, Mr Dean.

30 Now, it was the case, wasn't it, that you or Ms Li instructed Ali Syed to give you other guards' names?---Ali Syed was, Ali Syed already was instructed before he started from SIG office.

40 And it was the case that you got Frank Lu to be roster manager, wasn't it? ---Well, Mr Dean, what's actually happened with Ali, he sent some ghost names to SNP and this caused him to, a removal from the SIG offices as a, as a rostering manager and there was discussions who can we put. Lynn didn't, wasn't interested to do this job, or she, I think she probably was having a baby or something what I could understand and she was quite tied up to do this rostering role, then in my, in my memory there was sort of, as I said, discussion who we're going to put and they actually, Lynn says, "What do you think of Frank?" I says, "Well, Frank been at the uni for X amount of years." So they called Frank and they approached him on this and he agreed on this.

Now, you gave evidence yesterday that Mr Sirour asked you on four or five occasions where you had claimed a large amount of hours in a week to give you 50 per cent.---In few occasions, Mr Sirour - - -

I want to suggest that that evidence was false.---Negative, Mr Dean.

You also gave evidence that Mr Sirour asked you to buy people for him. I want to suggest that that evidence is false.---Negative, Mr Dean. It's, it's true what I said.

10 When you worked for Mr Sirour at SIG, this is 2013 to December, 2015, he would offer you gifts for the work you'd perform for him, wouldn't he?---I can only confirm he gave me a gift of \$200 when I got this Medal of Velour [sic] in Canberra.

You would accept that your time sheet fraud – you accept that you accepted time sheet fraud?---Yes, I will.

And you did it with Frank Lu?---Yes, I could say so, yes.

Would you accept that it was extensive?---In some occasions, yes.

20 I want to suggest that Mr Sirour was never aware of that extent of time sheet fraud.---No, Mr Dean. I'm sorry, but he was fully aware of this.

Now, there was discussion yesterday in your evidence about gifts to Mr Dennis Smith. I want to suggest that it was your idea to give gifts to Dennis Smith.---That's not true.

And it was the case, wasn't it, that you asked Mr Sirour to pay for gifts that you had promised to Mr Smith?---Negative.

30 Now, I'm April, 2018, you asked Mr Smith to save SIG, you have evidence about that yesterday. You did that to protect yourself, didn't you?---This was protection for Tommy not for me but in the same, same pace, yes, I can say I was part of it but SIG in the one hand as well.

You owed no loyalty to Mr Sirour.---Sorry, again?

You didn't owe any loyalty to Mr Sirour?---My loyalty towards him has ceased when he actually made up actually that his mum passed away and he flew before this happened.

40 But he did fly before this happened, didn't he?---Yeah. He, that's right. Well, he, he, there was a message from Lynn sending to myself and Daryl and I believe Frank and I was thinking it's all SIG stuff that his mum passed away and he has to fly to Egypt. Apparently, George told me, his mum passed away 20 years ago.

But it was the case that he left before this all happened, isn't it?---Yes, in, maybe few weeks before, yes. Like, I can't remember exactly the date he left but yes, he left before ICAC came to the uni.

No further questions.

THE COMMISSIONER: Thank you. Before I call on Mr O'Brien.

MR DREWETT: Commissioner, I just have a very short questioning based on something that was asked.

10 THE COMMISSIONER: Certainly.

MR DREWETT: Sir, my name is Mr Drewett. I act for Lynn Li. Can you hear me at the back here?---Yes, yes.

I want to ask you just very briefly about something that was put to you some five minutes ago by my learned friend by way of a question and it was put to you, in effect, did you ever pay any money to Lynn Li. Can you recall that question being asked?---Yes, yes.

20 Perhaps not those exact words but just some few minutes ago. Your answer was somewhat vague as I recall it. You certainly didn't say yes. I think your answer was that you're not sure.---Correct, sir.

I am going to positively put to you and assert to you and ask you to comment that my client, Lynn Li, never, at any time, received any moneys from you of any amount. What do you say to that?---Well, if you say this, I, I will agree because I said I am not sure.

30 Thank you. I have no further questions.---Thank you.

THE COMMISSIONER: Anyone else? Mr O'Brien.

MR O'BRIEN: Thanks, Commissioner. Can the witness be shown Exhibit 83, please. Now, yesterday afternoon, you had the opportunity of having a look at a statement from a Shannon Keevers, K-e-e-v-e-r-s, and you came to learn that Mr Keevers was a workshop manager for Zax Amusements. ---Yes.

40 And that's the document you were show yesterday afternoon?---Yes.

Now, can the witness be shown paragraph 7, which is on the third page of the statement. Can you see that clearly, can you read that?---Yes. Sorry, paragraph 7. I have (not transcribable). Yes, Peter.

And so what you've seen there is that Mr Keevers has gone through the online bank statements for the company Zax, do you see that?---Yes, yes.

And they have recorded some deposits.---Yes.

One of which was made on 2 December, 2016, apparently a cash deposit.
Do you see that?---Yes.

\$1,500?---Yes.

And you see the reference is to the pinball machine purchase identification.
Do you recall that?---Yes.

10 And you see a second deposit there on 5 December, 2016 and it says Taher
Sirour made the deposit, you see that?---Yes, Peter.

And again, the same invoice number, you can see that?---Yes, Peter.

Reconciling with the purchase of the pinball machine, is that right?---Yes,
Peter.

Now, you've had a chance to examine that information. Do you want to tell
the Commissioner about your evidence that you gave yesterday, so far as
20 you were recalling, that Mr Sirour, Tommy, did not contribute to the
purchase of the machine?---Yes, I will certainly explain. Commissioner, I
will explain, this was yesterday, not that I tried to lie or anything, this was
honest mistake. As we went backwards and forward, there was also my
email where I, they had some, I think \$40,000 to pay some tax or
something. This was, Qin Li was telling me this. So they were saying they
can't do anything. I says that's fine and the Lynn saying I will help you but
this was only, only two days period, Commissioner. It wasn't, like, that I
took this money and he contributed to this machine and he, I never gave him
back. This was only Monday to Wednesday and I says, Lynn, I got machine
30 to pick out, this is the case. So, Lynn, in my belief, I, I wish to confirm this,
but I think Tommy in this case was not, I think she went on his card or she
had access. So she got from her and from him but he wasn't aware probably
until week later when I return money on Wednesday. So on Monday I says,
Lynn, I'm getting these hours, on Wednesday you can get this money. This
was the honest true and this was my honest mistake.

So can I clarify then, it appears to be the case, evidently, that Zax received
\$3,000 from these two transactions, you accept that?---Yes.

40 And that you say you returned the money?---By Wednesday.

Who did you return the money to?---Well, Lynn took, took the both
payments back to, for her and, \$1,500 for her and \$1,500 for Tommy.

And how much did you repay?---She got, the leftover was \$1,780 to \$1,880,
I'm not sure.

How much did you repay to Lynn?---\$1,500, yeah.

Well, how much did you replay to Tommy?---\$1,500.

And did you say it in two lots or one lot?---I believe she deducted the money on that Wednesday.

She deducted the money from your pay?---Yes, when I meant to, when I meant to get the pay on Wednesday.

10 And the Wednesday was how long after this money had been lent to you?
---I believe two days.

I want to ask you next, please, about events in 2015, and in particular – I withdraw that. You were working with SIG in 2015?---Yes, till December.

And in December of 2015 you joined SNP?---Yes.

And in 2015 there was an incident whereby you were nominated for a
20 valour or bravery award?---Yes.

That was a national award, was it?---Yes.

And the incident involved your disarming a man who was armed in the
university campus. Is that so?---Yes.

Now, tell us what happened in relation to the nomination for a valour
bravery award, please.---What's actually happened, Peter, this incident
happened, we disarmed the person and later on, yes, university was thankful
as well, they were aware of this, then when came to get this Medal of
30 Velour [sic] SNP made decision to take only Gary Jannese to the Canberra.

Who did Gary Jannese work for?---SNP.

So is it your evidence that you were excluded from the award?---Yes.

Was there anything about your conduct in relation to the disarming of this
man on the campus that would suggest that Mr Jervase [sic] was any more,
was any more brave than you?---Peter, with all the respect to Gary as my
colleague, I was the one who actually was on the front and I was the team
40 leader who actually disarmed him.

Right. So in your mind you were entitled to the award as much as he?
---Absolutely.

So to your understanding why was it that SNP didn't nominate you or
support your nomination for the bravery award?---Peter, at that time the
general manager, Craig Miller, he says, "Emir is not SNP, he's not meant to
receive this, only this is only for SNP employees."

Right. So what happened after that such that it came to pass that you did receive that award?---Yes, with, with, with a big thank you to Daryl and Dennis Smith, they actually helped me, I mean they says, “This is not right, Emir should, he deserve this, like, we cannot just get Gary who probably have even less involvement than Emir, and putting him down because he’s a SIG not SNP, he still wear the SNP and representing SNP as a” - - -

10 What in particular did Mr Smith do in relation to - - -?---He - - -

- - - encouragement of you to receive this award?---He, he actually, what he did, I think he said to Daryl, “Like, this is not right,” like basically he says, “This is not right Emir doesn’t get this.”

Daryl at that stage was working for SNP, was he not?---Yes, he was account manager at that time.

20 So is your evidence that Dennis encouraged Daryl to talk to SNP about ensuring that you receive the award as was justly - - -?---Yes.

- - - due to you. Is that right?---Yes.

And did that event, and in particular Dennis Smith’s involvement in that event, forge a connection between you and Dennis of any type?---Peter, we knew each other even before, but I could say yes, as I was very thankful what he did to me, which he didn’t even have to, and yes, obviously he did and I’m thankful to him all my life actually what he did.

30 Now move to the middle of 2017, please. In the middle of 2017 was there an occasion where you were in a meeting with Lynn Li and Tommy Sirour? ---Yes.

And at a time when Mr Sirour offered you a significant amount of money? ---Yes, that’s right, Peter.

40 Tell the Commission about that, please.---Commissioner, 2017 I received call from Lynn Li to visit the office. I made my way there. I didn’t much expect I will be seeing Tommy, she just said, “Come and have a coffee,” like, like a social thing. I made my way there, then I found Tommy in the office and Tommy, there was, how they have like an open space, sort of Tommy had the, had the girls working but he sort of used the, like a demountable, like a block area, like it’s not like a close-in hall, but just when you sit no one can see you. He was there with Lynn and he says, “Emir, you’re doing this, I need you to get me basically more job.” I says, “Tommy, I’m not in this position.” So what we, you told us that you need, he says, “I’m happy to get you something for this.” I says, and I, I was keep refusing all the way, then he asked Lynn to start writing a cheque of \$20,000 and I, I also believe at that time SNP probably wanted him out,

Commissioner. All the time, every year I think SNP SIG were some talks that SNP wants to get rid of Tommy. He wrote this cheque and he gave me this cheque of \$20,000. He says, "Emir, you need, this is for you." I said, "Tommy, I don't want this money." And he actually after this lost the plot when I, when I pushed this cheque back, even in the previous examination Lynn says this cheque is in the office, I believe. So when I push this cheque back, Tommy, he lost the plot. He saying, "If something happen to me I will go to the chancellor, I will tell him all this, all these things happening." I said, "Tommy, yeah, go for it." This was my answer for him. But I'm not taking this money.

THE COMMISSIONER: Why didn't you take it?---Because as I was already more trapped, Commissioner, I just didn't want it. I, I, I found actually this, this is too excessive and I says, "I don't want this money." I definitely didn't take. And what Lynn says in the previous, this cheque is in the office. I believe it's, I don't know is it still there or not.

Thank you.

20 MR O'BRIEN: Nothing further, thank you.

THE COMMISSIONER: Mr English? Oh, hang on, we've got - - -

MR ENGLISH: Two matters.

THE COMMISSIONER: Mr Dean wants to ask a few more questions I think.

30 MR DEAN: I just want to suggest to you, you just made that evidence up. ---Definitely not, Mr Dean.

THE COMMISSIONER: Thank you.

MR ENGLISH: I've got two matters I'd like to re-examine on, Commissioner. You were asked some questions by Mr O'Brien, Mr Balicevac, about, pardon me, the payments for the machine. Do you recall that?---Yes.

40 And I think your evidence was that you paid both Tommy and Lynn back \$1,500 each in the week following?---In two days, Mr English.

In two days. So a total of 3,000?---Yes.

I think your evidence was also that that \$3,000 payment was deducted from your pay by SIG the following week?---I believe so, yes.

Okay. If we can just have a document brought on the screen. It will need to be tendered, Commissioner. It's the SIG payment summary for the week

ending 11 December, 2016. Might that get an exhibit number, Commissioner?

THE COMMISSIONER: That payment summary will be admitted and marked Exhibit 87.

#EXH-87 – PAYMENT SUMMARY OF SIG DATED 5 DECEMBER 2016 TO 11 DECEMBER 2016

10

MR ENGLISH: You can see there that the schedule is – I withdraw that. Let me start with this. You’ve seen documents similar to this in your examination by me, Mr Balicevac?---Yes.

This is a SIG document. It says that it’s a schedule for 5 December, 2016 to 11 December, 2016. Do you see that?---Yes.

20 If we go down to number 46, you can see that you’re paid for this week for \$163 hour, \$4,386 and you see in the notes, it says, “Deduct \$1,500 to Lynn,” and then it says “Add 400 adjustment from last week.” Do you still say that there was 3,000 deducted from your pay on this particular week? ---Could be Tommy came to me and got this money but he definitely, this was, this, this week he got and both of them got the money, hundred per cent.

If that can be taken down, please. You were asked some questions by Mr O’Brien about receiving the Medal of Valour.---Yes.

30 Now, is it the case that SNP’s treatment of you in relation to its initial position in relation to that medal, led you to despise that organisation, SNP?---I could, I could, I, yes, I agree.

And notwithstanding that position you took against SNP, you later accepted a position of employment with SNP?---No. No, Mr English.

Well, no, didn’t you agree to take a job with SNP?---Yes.

40 And that was despite the fact, on your evidence, you were despising that organisation because of that way they treated you in relation to the Medal of Valour?---Medal of Valour and there is other things, too.

So you despised SNP but you took a job with them?---Yes.

And once you took that job, you deliberately went about, in accordance with Tommy’s inducements, undermining SNP’s commercial interests, would you agree?---Yes.

Thank you, Commissioner.

THE COMMISSIONER: Thank you. Mr O'Brien, in light of the witness's evidence in relation to the statement of Mr Keevers, I'm going to vacate, or I do vacate the direction I made pursuant to section 35(2) of that Act, which means Mr Balicevac, you don't have to go and worry your bankers, you don't have to get those bank statements.---Okay, Commissioner.

10 And Mr O'Brien, I don't anticipate that we will want this witness to come back but there are certain witnesses, you might have noticed, during the course of the evidence that I haven't discharged just in case. I'm not proposing to discharge this witness from his summons at this point. What I propose to do in relation to those who are still bounds by their summonses, is at the end of the public inquiry, discharge them all.

MR O'BRIEN: I understand.

20 THE COMMISSIONER: So I hope you don't have to come back.---I hope so too.

I'm sure. But you're free to go at this point. Thank you.---Thank you, Commissioner.

Thank you.

THE WITNESS WITHDREW

[10.52am]

30 THE COMMISSIONER: Mr English, having regard to the time, we might just take a short adjournment now. I understand you're going to call Mr Smith next, is that right?

MR ENGLISH: That's right.

THE COMMISSIONER: All right. Well, it might be better, so you can get your thoughts in order, that we adjourn until five past 11.00, maybe ten past 11.00.

40 MR ENGLISH: May it please.

THE COMMISSIONER: And then we'll proceed. Thank you.

SHORT ADJOURNMENT

[10.53am]

MR ENGLISH: Mr Smith can come up to the witness box.

THE COMMISSIONER: Mr Smith, come forward, please.

MR SMITH: Oh, sorry.

THE COMMISSIONER: Mr Mackay, does your client seek a section 38 declaration?

MR MACKAY: Yes, please, Commissioner.

10

THE COMMISSIONER: Mr Smith, will you take an oath or an affirmation?

MR SMITH: Oath, Commissioner.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Take a seat. Mr Smith, let me explain to you your obligations as a witness and your rights, and I do so in the context of your barrister indicating to me that you seek a section 38 declaration.

10 As a witness before this Commission you must answer all questions truthfully and you must produce any item that I require you to produce during the course of your evidence. I propose to make a declaration pursuant to section 38 of the Independent Commission Against Corruption Act. The effect of that declaration is that although you must still answer the questions put to you or produce any item I require you to produce, your answer or the item produced cannot be used against you in any civil proceedings, or subject to two exceptions, and I have to clarify in a moment whether they both apply to you, in any criminal or disciplinary proceedings. The first exception is that the protection does not prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, most importantly the offence of giving false or misleading evidence.
20 To give false or misleading evidence to this Commission is a very serious matter. If convicted the penalty can be imprisonment for up to five years. The second exception only applies to New South Wales public officials. Evidence given by a New South Wales public official may be used in disciplinary proceedings against the public official if the Commission makes a finding that the public official has engaged in or attempted to engage in corrupt conduct.

30 Now, last time you were here I think you were still employed by the University of Sydney?---Correct.

And that's not the case today?---No.

Are you employed?---No.

40 Right. Thank you. Well, you don't have to worry about the second exception. Pursuant to section 38 of the Independent Commission Against Corruption Act 1988, I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT 1988, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO

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

THE COMMISSIONER: Yes, Mr English.

10 MR ENGLISH: Thank you. Can you just state your name for the record,
please.---Dennis Barry Smith.

You're formerly a New South Wales Police officer?---Formerly, yes.

What rank did you attain prior to leaving the New South Wales Police?
---Superintendent.

Were you attached to a local area command?---Final command? I was,
worked all over the state.

20 Were you with the State Crime Command, were you attached to a particular
local command?---No, I was, I was a local area commander.

Okay. Whereabouts?---Redfern was my last command.

Did you work at Newtown as well?---No.

Are you a licensed security consultant?---Yes.

30 Who are you licensed with?---The, the board, the actual, the state board, the
state authority. I don't belong to a company, it's only my own, but I had no
employees so - - -

So who issues you the licence?---The state regulator, I'm not sure who - - -

SLED, is it?---Yeah, yeah, SLED.

Okay.---SLED.

40 And so being a licensed security consultant, what does that enable you to
do?---Just can't recall all my qualifications, but there's certainly, you're
allowed to do risk assessments, you're allowed to sell, you're allowed to do
a range of activities. I'm just not sure of my full qualifications because I
haven't used it for a number of years.

And you obtained that licence, did you, by satisfying SLED that you were
appropriately qualified for that, did you have to sit an exam or do anything
like that?---Yeah, examinations, provide a risk assessment documentation
through a provider to get the licence, yes.

So do you accept that under that licensing regime you have a level of expertise in the security industry?---I wouldn't say expertise. I'm only new really to the industry. I've been a police officer since I was 18 years of age, so it's a relatively new industry to me, I mean I haven't been in it all my life.

10 So when did you become a licensed security consultant?---It would be an estimate, but probably around 2009 or '10. An estimate, I just don't know.

And it's a matter that you include on your CV, that you're a licensed security consultant?---It's a long time since I've seen that CV but it would have, it's, I would have it on a CV.

Well, you came to the University of Sydney professing to have some expertise in the security industry, didn't you?---As a consultant or an employee? I'm not - - -

20 Well, when you applied for the job you said you got that position in 2009, when did you first join the University of Sydney?---It was only, well, I was an employee November 2012.

Right.---So was doing some light consulting work there for them.

And you would have, when you applied for that job, put forward that you were a licensed security consultant, would you not?---Yes.

30 THE COMMISSIONER: Did you do consulting to the university, did you, before you took up employment?---One or two small jobs, Commissioner, yes.

And were they risk assessments?---There would have been a couple of risk assessments, yes.

In relation to security?---One was in relation to the university union about a service desk, a counter that was taking, taking money, the second one was around more emergency management than, than actual physical security.

40 Thank you.

MR ENGLISH: When you just said a risk assessment in relation to a service desk counter taking money, what, were they taking cash payments, that desk?---University service union, they'd have their club at night where they'd take cash dollars for entry and things like that, so it was advice around that particular desk.

THE COMMISSIONER: Thank you.

MR ENGLISH: And have you ever provided advice in relation to the risk of fraud in the security industry?---No.

That's nothing you've ever been able to express an opinion on, is it?
---An opinion?

Yes.---I have an opinion on fraud but I'm not an expert.

10 Well, have you ever been asked to express an opinion on issues of fraud in the security industry in a professional sense?---No.

Okay. You worked for the New South Wales Police for how long?---26 years, general duties, never in detectives, I was a general police officer.

Okay. So you would have investigated a wide spectrum of offences?
---As a junior officer, yes.

20 Led to many I would suggest successful prosecutions?---I don't know whether it's successful but would have been arrested and charged a few people, yes, over the years.

And ended up with a conviction through the court process?---Yes.

Would you say you've got a level of expertise in crime prevention?---Crime prevention?

Mmm.---I, crime prevention, I don't know about a level of expertise but I have good knowledge around crime prevention.

30 Well, one of your tasks at the university was to ensure that crimes such as theft and assaults on campus were kept to a minimum, correct?---Yes, that would have been part of the job description.

What about fraud? Have you had any experience in investigating fraud when you were a New South Wales police officer?---No.

Never?---Not complex frauds.

40 I didn't say complex frauds.

THE COMMISSIONER: He didn't say complex.

MR ENGLISH: I said fraud.---If you define fraud to me, I'll - - -

Well, define fraud?

THE COMMISSIONER: So are you saying as an experienced police officer of some 20-odd years' standing, you don't understand what the word

fraud means?---I understand the, the basics of fraud but I, I don't exactly remember doing frauds. There are specialist, there are specialist squads that investigate frauds.

MR ENGLISH: Well, no, with respect, there's many types of frauds that can originate and go through general duties police, would you agree with that?---It'd be very basic, and I haven't been there since 2006, so when I was there we never really managed frauds. There was, there's a - - -

- 10 You'd know that fraud generally involves dishonesty and sometimes deception, would you agree?---Yes, but they'd be handled by the plainclothes teams even back then. General duties staff don't go into doing a lot of frauds. Your detectives back then would have done it and now there are specialist squads.

So you're saying to the Commission you've got very little experience in detecting fraud, fraud offences, is that right?---I don't profess to have any great knowledge on frauds.

- 20 And as superintendent you'd be reviewing other officers' work?---Yes. Well, when you say work - - -

Well, other officers' investigations?---No. No, you have a crime manager to do that, who's an experienced detective.

And as you rose up the ranks, you never were required to supervise other investigations into fraud?---No, because they're done by investigators. I was in uniform my whole service.

- 30 You resigned from the university on 28 January, 2019?---Sorry, the university?

Of Sydney. Did you resign from the university on 28 January, 2019?---No, I, I thought it was 8 February.

Was it 8 February?---If that's the Friday - - -

That was your last day, was it not?---Yes.

- 40 So what day did you resign? Do you agree that it was the - - -?---Oh, sorry, resign, resign. I thought you said last day. I'm not too sure (not transcribable) the actual resignation.

Did it coincide with being served with a summons for this public inquiry?
---No.

What was your notice period to leave the university?---Would have been in my contract. I'm not sure.

Four weeks?---I, well, it wouldn't have been four weeks, I wouldn't have thought, because that was an old, I was under the old EBA. I stand to be corrected, but I wouldn't have thought it was four weeks. Maybe two weeks.

What was your position at the university when, up until the time when you resigned?---It was security operations manager.

10 And who did you report to in that role?---When I first started, it was Mr Andrews, but he left in 2016, around July.

That's Morgan Andrews?---Yes, sir

And who after Mr Andrews left?---I, unfortunately I had to fill both roles, so I was the manager and the, and the security operations manager, so I had to report up the line two levels to Mr Steve Sullivan for most of that time. He was the divisional manager.

20 And then you said you were performing two roles. Did you go back to performing just one at some stage?---Yes, when Mr Hardman came as the new manager. I'm not sure of the date. It might have been September or something 2017 that I went back to my substantive role but also picked up some of the traffic duties because the traffic officer had been made redundant.

And so you reported to him from 2017, Mr Hardman, did you?---Yes. Until I left. I, well, then end of 2017.

30 What did your position at the university as the operations manager require of you?---Well, pretty much I think the key is there it's operations, so I'm responsible for staff and students. I'm responsible for emergency management. I'm responsible for keyholder meetings internal, external. Managing the security team is part, is part of that, their operations. Planning operations. Working with the security risk coordinator to plan operations. And then, obviously, any tasks that come down from the manager. Remembering I said for about 14 months I was doing two jobs, so from August 2016 until September 2017 I was actually pretty much doing both jobs as best I could, but you were certainly getting pulled.

40

You said I think that you were responsible for overseeing the security team's operations.---It's one of nine accountabilities.

And does that include or extend to the operations of the Campus Security Unit?---Well, that's a contract with SNP. I'm not a contract manager per se.

Well, do you - - ?---SNP managers managed SNP.

Do you say you had no responsibility in overseeing the operations of the Campus Security Unit?---I had a role in that, certainly. Certainly.

THE COMMISSIONER: What was it?---Well, my role is ensuring the officers are actually performing the tasks that are in the contract as best you could. Dealing with the two managers. The contract itself, sir, is a managed service and I just think it's something that's been overlooked. The university assigned a managed contract, a managed service. So it comes with a manager, it comes with a 2IC, SNP/SNP. All the team leaders are
10 SNP. So the university personnel are basically there seven hours a day. So that's me. So I'm managing – part, part of my job is to oversight this, and you're there seven hours a day, so 35 hours a week out of 168. So 133 hours a week there are no university personnel there to oversight the operations of the contractor, and it's over 7,000 hours a year.

Yes, but during 35 hours of the week you were there.---Yes. I was there, certainly, yes.

Supervising.---Supervising.
20 Yes.

MR ENGLISH: Well, perhaps if Exhibit 36, page 8, can be brought on the screen, please.

THE COMMISSIONER: Was Mr Hardman an ex-police officer?---Yes, sir.

And what command was he attached to?---I only ever met him when he came to Newtown.
30

And did you know him well?---No, sir.

Thank you.

MR ENGLISH: Page 8. Sorry, is it 35? It might be 35, I'm sorry. I'm sorry, it should be Exhibit 35. This is a position description for the security operations manager. You see that?---Yes, sir.

And that was your position description, correct?---Yes.
40

Bottom of the page, it says, "Key accountabilities and responsibilities."
---Yes.

Go over to page 9, please. See 1?---Yes.

"Build the security team's capacity to protect university operations, including providing leadership and direction to all security coordinators, team leaders and officers to conduct operations, while ensuring the unit

maintains the highest ethical standards in respect of the law, rules, university policy and the operational duties of the Campus Security Unit.”
---Yes.

Now, you were making a distinction earlier between responsibilities that might have lay with SNP and responsibilities that lay with yourself. Do you recall that?---Yes.

10 Well, isn't this saying – I withdraw that. A team leader is a position that falls under the contract, isn't it, for SNP to supply?---Yes.

And you've got a responsibility of providing leadership and direction to team leaders, correct?---Yes, in providing them with some guidance, yes.

Well, the Commissioner asked you if you had a supervising role in relation to that work and you denied it. Do you stand by that?---I wasn't sure I was asked, supervising in terms of the, the actual contract.

20 Well, these are the workers that are provided pursuant to the contract, correct?

THE COMMISSIONER: There's two contracts, aren't there? There's a contract between the university and SNP but then there's an employment contract?---Yeah. I, that's - - -

30 And the employment contract sets out your duties.---Yeah. No, that's, sorry, that's where I was coming, there is a contract from SNP where they have responsibilities for their people. As far as my role, that's one, that's one of nine accountabilities there.

MR ENGLISH: But you've got responsibility for their people, too, under point 1.---So that's all about, specifically, it talks about to conduct operations. That's what it says, "Provide leadership and direction to coordinators. To conduct operations while ensuring the highest ethical standards."

40 THE COMMISSIONER: What did you understand that to mean?---You are there to provide, provide some guidance. It's part of my role and it's part of, one of nine accountabilities there, you have, for the team.

MR ENGLISH: And how was it that on the day to day basis, you provided leadership and direction to security coordinators and team leaders?---It would be a daily contact. So it would start at 6 o'clock in the morning, the team leaders would come out, we would review the synopsis, that would be the start of the interaction. We'd talk about the team they've got for the day, provide information of any events that we've got going for the day and there to answer their questions.

And you said talk about the team that was to be provided for the day. How did you satisfy yourself that that team turned up to perform its tasks?---So, again, part of that role is talking to the team leader. All the documentation, the sign-on and sign-off is SNP documentation. You had a rough roster, you'd talk to the team leader and you said, your team here, you have a full team, what are they doing today, the lockup tea, was there. I'd come in early to sort of see people coming and going. So I'd see some of the people going off nights, I would see the people arriving for the day and I would see people in vests heading out to do some of the lock-up work.

10

And did you ever inspect the paperwork, for example, the time sheets, to see if the people who said they were turning up on shift correlated with your observations of who was there on a particular day?---I would have done checks and balances on those, being mindful of - - -

When you say I would have, did you or did you not?---Yes, I would have had a look at the time sheets from time to time, yes. They're an SNP - - -

How frequently?---Oh, I would, I was in the control room maybe once a day, twice a day. I would look at people signing on, I would have a look at the sheet. It's an SNP document though. There's no provision to endorse, check, fully review, sign-off on any of that documentation because it's all an SNP document. It's their responsibility, their 2IC and their manager, their site manager, Mr McCreadie, to account for their people.

20

So you, I think, on your evidence, were looking at the sign-on sheets once a day?---I might go there, I would be in the control room. It sits there, it's a very messy document, it's hard to understand. There's scribble all over it, it's all a handwritten document, so you would have a look, you would, you know, I've seen people sign on to it. I know the person signing on, I saw who they were signing on to, so yep.

30

And so, if you saw things like missing information from the site time sheet, would you raise that with someone?---Yes, did. Yeah. It all was raised with the time, the time leader, sorry, the team leader. There was an odd time where there might be not a sign-off of an ended shift, which is, to me, obviously now it's a different story to when these checks were being done but it was a human error so I would say to the team leader, fix it.

40

What if there wasn't a security licence number included on the site time sheets, would you raise that with someone?---I don't specifically remember doing a licence number but certainly I remember talking about the sign-off wasn't finished or something of that nature. So I would tell the team leader or Emir or Daryl to, Mr McCreadie, sorry, to have a look, there seemed to be an error, human error.

And how often do you recall raising issues of that nature with Mr McCreadie? Did you say Emir or Daryl?---Yeah, who was there, the team leaders to start with or Emir, who was ever the closest one that I saw after it.

And how often do you recall raising issues of that nature with those two people?---It wasn't that often. Not that often.

Was that because the sheets were, to your observation, filled in adequately? ---Well, they appears to be. There were names, there were - - -

10

Did you ever notice similarity in handwriting on the sheets?---No. The inspection's not that forensic. You know, I might look at the sheet and it's messy, very messy handwriting and, no.

Just going back to point 1.---Yes.

20

What did you do to ensure that the Campus Security Unit maintained the highest ethical standards in respect to the law, rules, university policy and the operational duties of the CSU?---It's mainly through, through talking to the team leaders and through Mr McCreadie who is the, who is the leader. Expected standards. We have regular meetings. The laws and rules about the university is about their deployment more in the field, about the expectations of what they're doing when they're interacting with staff and students. It's more aimed towards, you know, the field, working with staff and students. What we expect in their operational duties.

30

Can you give one example of an ethical issue you raised with Mr McCreadie?---Highest ethical standards. Was probably around the, well, the focus on customer service, 98 per cent customer service to staff and students. Dealing - - -

THE COMMISSIONER: Why is that an ethical issue?---Sorry, sir?

Why is that an ethical issue?---Highest ethical standards in respect of the law. Well, it's around the law, sir. It's about, around the law, enforcing the university policy and rules with staff and students but being mindful it's a 98 per cent customer service role.

40

MR ENGLISH: Did you ever raise with Mr McCreadie for example the prohibition on accepting gifts and benefits from third parties?---I don't think I would have raised that.

Did you ever discuss the risk of that occurring within the Campus Security Unit?---Not that I recall with him, no.

How many years did you work with Mr McCreadie at the university, was it almost five or six years?---Probably, well, 2015 he became the site manager with the contract but he used to come and go before that so it was irregular

through the week. He might turn up once or twice through the week. So certainly from 2015 when the contract came in.

10 THE COMMISSIONER: The impression I get from your evidence is that you consider that your duties were somewhat limited, certainly in terms of the day-to-day activities of the guards.---But that'd be true, Commissioner, because I do have another sort of eight or nine accountabilities there which aren't much to do with the actual guards themselves. It's dealing with other stakeholders. It's in the field. I'm not sitting in that office more than probably an hour or an hour and a half a day.

And is it your position that those duties were so limited that it's not reasonable to have expected that you would have detected the significant fraud perpetrated on the university?---Sorry, I got the second part of the question, Commissioner. I didn't - - -

20 Is it your position that having regard to the limited nature of your duties it's not reasonable to have expected you to have detected the significant fraud perpetrated on the university?---You know, didn't have any involvement in what these people are doing or any knowledge of what these people were doing at all.

30 I know you say that but is that because, do you say that was because of the limited nature of your duties?---It certainly, it is that and also the fact I'd suggest that it's contributed that there are no university personnel after 3 o'clock managing the contractors. It's a signed contract where there's, I go home, I used to go for a walk and then I would ring in of an evening making sure team was there, talking to the team leaders, doing what you could remotely. You're there for, you're there from sort of, well, I was doing nine and 10 hour days as it was but I mean you're there a 35 hour week, Commissioner, and pretty much it appears from the evidence most of this has been done in the ad hoc weekends or nights when there aren't any university staff, sir.

40 Very well.---Sir, could I say one thing. We did ask, we did ask as a crime prevention measure a business case, an ad hoc request to Mr Sullivan around in getting university team leaders back, back on-site. Apparently they used to have them years ago but we felt that would be one way because if we had any concerns it was probably around the ad hoc. So we had the contract and we had a whole other beast called the ad hoc work and - - -

Yes, I'm aware of that and is it the case that you recognised in respect of those ad hoc services that unless you had university team leaders there, there was a potential for fraud?---There could have been a potential.

And that was something that you believe at the time, that is at the time, you had your discussion with Mr Sullivan?---With Mr Sullivan, the university team leaders could certainly reduce the capacity of, of anything happening.

There was no suggestion there was but it certainly couldn't reduce any, any risks at the university.

Well, did you have a suspicion that in respect of the ad hoc items, that SNP were charging the university in respect of services that hadn't been rendered?---No, sir.

Very well. Mr English.

10 THE WITNESS: Sorry, Commissioner, sorry.

MR ENGLISH: So this Commission's heard a large body of evidence that a fraud was occurring from 2016 up until April, 2018, involving false entries on time sheets, time sheets that were kept, I think, in the control room, well actually in an office in which you were housed. Is that right?---No, not really. So the, the control room is a security environment, it's a locked, sealed environment. You have a control room, you then come out in to another room, which is a semi-sealed environment, you then come out of that in to an open office evidence where the Campus Security Unit was, or it
20 was housed.

And after the time sheets were scanned and sent to SNP, the evidence is they were kept on a shelf behind Mr McCreadie's desk. Now, you sat near him, didn't you?---On the I heard, it was in a locked drawer in, in, in Mr Balicevac's drawer, desk.

It was for a while and then it was put on a shelf behind where you all sat, that's the evidence. And I just want to ask you this, given your proximity to those who were involved in the fraud, namely Mr McCreadie, Mr Lu and
30 Mr Balicevac, and your proximity to the time sheets, do you have any explanation as to why the fraud occurred while you were so close to it for so long?---I'm suggesting I wasn't close to it.

I mean, does it reflect on your competence in any way?---No.

Or does it reflect on the fact that it was beyond your, according to you, beyond your responsibilities at the university?---No.

Well, can you offer any reason as to why it occurred for so long when you were so close to it, and that's in the context of you being a trained police
40 officer for 26 years and a licenced security consultant?---So on the evidence, it would suggest that you've almost got a conspiracy against, really, myself and the university of five or six people. The, the head of the contract, the 2IC of the contract and the four or five team leaders appear to be all, all in this.

So a conspiracy, as you'd probably be aware, from being a police officer is an agreement to do an unlawful act or to perform a lawful act by way of

unlawful means. Are you suggesting this Commission is doing that against you?---No. No, sir. I'm saying those staff were working together. I mean, they've, whatever they've done, the deceit has been done pretty well but I'm suggesting most of it's been done out of hours. The time sheets again, are not my responsibility in terms of they're an SNP document, they're filed, you're not going to through their paperwork and, and they're locked away.

You got very close to Emir Balicevac, correct?---It wouldn't be close, I, I became friends with Emir.

10

Would you agree that you were a father figure towards him?---I think he, he saw that.

Does he come to your house?---He has come to my house.

On how many occasions?---Probably four or five occasions. As a, as a social visit, once.

20 When you say as a social visit, once, what's the distinction you're drawing there?---Well he helped me move because I obviously had an issue with the, my neck. He helped me, helped move a couple of things when I first moved to my, my current residence.

THE COMMISSIONER: I should have asked you, Mr Smith, and I don't think you've been down here, or you haven't been down here regularly over the last week or so but have you been watching the live stream of the evidence?---Oh, a couple of times I did see it but not much, Commissioner.

30 Not much?---No, sir. No.

MR ENGLISH: And in terms of your social interactions with Mr Balicevac, can you tell the Commission of what nature they formed?---Social interaction, he, he called in to my house on one occasions after he, he had a camping, a camping weekend or something with his family but I've never been out socially with him, dinner or anything of that nature. I've never been to his house, never so that's kind of the level of interaction, there isn't much.

40 You had dinner with him down at Canberra, haven't you?---There was a presentation, it wasn't a dinner. There as 500 people there, it was an awards night.

You didn't sit on his table?---He would have been on the table. I think it was about a table of 10 or 12 people. There were about six couples at least.

And there must have been something about Mr Balicevac's personality that you observed that influenced your decision to spend time with him?---I never really spent time with him.

Or to maintain a close relationship with him would you agree with that?---It wasn't really a close relationship either.

Well, how would you describe it? I think you've agreed that he might have seen you as a father figure. So did you offer him guidance? I mean - - -?
---Yeah. I, I would offer him guidance in his personal life. He didn't have any family here, from memory, and he would ask me some questions about family, family life, some guidance. So where I could, I, I provided him with
10 advice.

Now, when you were working with Mr Balicevac, did you have any reason to doubt his honesty or integrity?---No. That's the gut-wrenching thing, Mr English. No, I did until to the day, until I answer all this evidence, that is the thing unfortunately. It's blindsided me completely.

You were just used by him, were you?---I don't know if that's the, whatever the reason, but I had no idea that these people were involved and especially him.
20

Police office for 26 years didn't suspect in any way that he might have been dishonest or lacking in integrity, is that your evidence?---I didn't think he was involved in this fraud against the university.

THE COMMISSIONER: I don't think that was the question.---Sorry, Commissioner.

MR ENGLISH: It was about his honesty and integrity and in the context of being a police officer for 26 years, you didn't suspect anything adverse in
30 that regard, concerning Mr Balicevac?---No.

Now, what about Mr Lu. What was your relationship him like?---Frank was a roving team leader. You would see him probably once or twice a week just because of the way the shifts fell, me being a day worker. Standard relationship, work relationship.

Did you share any pastimes with him?---Yes. We probably, again, I'm not sur of the dates but around late 2017, we probably had about a two month betting package, a horse betting package, yeah, and we'd share tips.
40

So did you ever see Mr Lu off campus?---Once at Broadway after the, after the warrant, maybe, if that's off campus but, yeah. Never anything, never, never anywhere else, no.

What did you discuss with Mr Lu when you saw him in Broadway, assuming that's off campus?---Pretty much the, the main aim was a welfare check on, on him. He went off sick straight after the warrant, from memory. He doesn't have any family here and everybody was dumping everybody.

So primarily a welfare check, was he going to come back to work was the second question and started talking to him a little bit about the, the issues that happened. I stopped him because there's a current investigation, I don't want to know people's involvement.

So this was after the warrants were executed, meeting with Mr Lu in Broadway. Was he at work that day?---No, he was off sick. That's why I went to check on his welfare.

10 And did he call you or did you call him?---I may have instigated it from memory. It was a welfare check, yeah.

So you were just worried about his wellbeing and that's why you wanted to meet him down at Broadway?---And get him back to work.

20 THE COMMISSIONER: But what were you checking as part of this so called welfare check?---Well, as I said, everybody was just sort of ducking for cover and leaving people out in, in the dark and he had no family here and he went off immediately sick so it was pretty much just a – SNP weren't helping any of their staff, so it was a welfare check on him and was he coming back to work. The second part is about, it was myself being a bit selfish, that I needed him back at work at the university because we had no team leaders.

So, but you contacted him - - -?---Were you coming back to work.

30 But you contacted him for the purposes of this welfare check, didn't you? ---I contacted him for that and the fact is he coming back to work, Commissioner, because we needed the team leaders.

Yes. And you told him to meet you at Broadway.---Yes, 'cause he's off sick so he can't, he can't really come onto the campus, he's off sick.

Why not, because of germs? Why couldn't he come onto the campus? ---Well, when they're off sick they're generally not, not to come on campus.

40 There's another explanation, that you didn't want him to come on campus because you didn't want anyone to see that you were meeting with him. ---There was nothing to hide, Commissioner, it was about getting him back to work and a welfare check.

MR ENGLISH: I think you said to the Commissioner you had been watching a live stream. Is that right?---Oh, occasionally, not much, no.

Are you aware that Mr Lu says that when he met with you, you counselled him against telling anyone that he provided you with a gift card? Are you aware of that?---I actually told him to tell the truth at the ICAC. That's what I did tell him.

Well, just answer the question.

THE COMMISSIONER: Please answer the question.

THE WITNESS: Sorry.

MR ENGLISH: Are you aware that Mr Lu has said that when he saw you
10 in Broadway, you counselled him against telling anyone that he'd provided
you with a gift card in Christmas 2017?---No, I don't remember saying that
to him.

You never would have said that?---I don't recall saying it.

Did you receive a gift card from Mr Lu in Christmas of 2017?---Yes.

And did you declare that with the university?---No, it was a Christmas
exchange and no, no, I didn't.

20 THE COMMISSIONER: How much was it for?---I couldn't actually recall,
Commissioner. It wasn't, I couldn't recall. I know I bought aftershave with
it but it wasn't, so I bought some aftershave and I think I told him I bought
aftershave. I couldn't remember the value.

Thank you.

MR ENGLISH: Did you receive a Christmas gift from Mr Balicevac that
year?---Sorry, two thousand - - -

30 '17.---Yes, it would have, I would have.

What was that?---I think it was a bottle of wine or some sort of, some sort
of, I don't know, a, a bottle, a bottle of something but - - -

An alcoholic drink, was it?---Yeah, yes, yes.

40 Did you declare that?---No, again because it was an exchange. So I gave
everybody else a gift in the office and I guess we've got to understand, these
people sit in, in the room, the same room as the, as the university staff, so
there's a kind of a very small office of six or seven people, so there's an
interchange of Christmas gifts and this is what it was.

Right. What did Mr Lu give you that year?---He gave me the gift card.

Sorry, what did you give Mr Lu?---I can't exactly recall what I've given
Frank. No, no, probably, no, nothing, because it was, we're talking about, I
was talking about the managers outside talking to Mr McCreadie and, and
Mr Balicevac. But what I did do is always bring it at Christmas when those

team leaders were on, a whole lot of hampers and things and left them in the, in the control room. So it wasn't for him specifically but he's there to use that long with others.

You paid for those yourself, did you?---Yes.

Out of your own generosity, just brought it in to share with all the security guards?---I do that all, I do that often. They, my wife does cakes and things, I bring them all in to the team, leave them in the control room.

10

Well, there's a difference between cakes that your wife may bake and hampers that you buy.---It was Christmas, Christmas, when you say buy, they're put together, I buy small things and you put 'em in the fridge or you put 'em there, they had 'em over Christmas, they had a shutdown.

I'm just wondering if I can come back to that. I'm sorry, Commissioner. What about Taher Sirour, do you know him?---Tommy?

Tommy Sirour, yeah.---Yes, I would have met him.

20

Well, I asked if you know him. You've said you met him. I take it that you do know him. Where did you meet him?---On campus.

How many times?---I would have met him two or three times a year, more like probably two times a year, on campus, about his guards.

So that's two to three times a year, going back to what?---I don't know the, I don't - - -

30

2014? 2015?---I'm not even sure I would have met him in '15, but I stand to be correct, but let's say when his guards, I guess the new contract his guards seemed to have a lot more of the work, so it would have been probably then around the contract, but I don't recall.

So two to three times a year from 2015 until you - - -?---Probably more like two.

40

Well, you said two to three, didn't you?---Yeah, I'm trying, I'm trying to recall but it wouldn't be more than two, or maybe one year there might have been three, but you're talking twice a year.

Where did you meet him on campus?---At either of the cafés on campus, coffee shop, coffee shop.

Where, any particular coffee shop?---Oh, it was usually the pool café. There's an aquatic complex, there's a pool café there, or there's a small coffee shop at the, at the back where there's a car park at the university.

Is that on the eastern side of - - -?---It's on the, it's on the Darlington - - -

- - - where the Merewether Building is, on the Merewether side?---So we're talking about the aquatic centre though? Yeah, so you'd say the Darlington Campus if we could - - -

Yes, the gym.---Yeah, yes.

10 The gym and the aquatic centre.---Yes, yes.

Okay. Did you ever meeting him at the back of car parks?---The back of car park, no, we met in a coffee shop. The university car park where he parked is certainly next to the coffee shop.

20 Right. And what type of matters would you discuss two to three times per year when you met Mr Sirour?---Pretty much he was a reasonable stakeholder in the, in the amount of guards that were there, so it was about pretty much the standard of his guards. He came in and he would ask about the standard of his guards, I would tell him they were fine, there are a few issues with one of two of them, we've discussed that and part of that role for me was closing the loop back to SNP, did he have any issues or did he raise any issues with SNP, back to me.

Did he ever complain to you that he wasn't making enough money out of the subcontracting arrangement through SNP?---He always complained about money but it's nothing to do with me, it's arranged between you and SNP.

30 It's never a matter you would have concerned yourself with, how much profitability or lack thereof Tommy was making?---No.

Did he ever complain to you about the cost of things like uniforms?---He did, he probably talked about uniforms, that's an SNP responsibility under the contract and I would have steered him back to that.

40 You certainly wouldn't have had any sympathy towards him in relation to a matter like that, would you?---Not that I recall for uniforms. SNP are obliged to supply uniforms, we need these people to be looking appropriately dressed.

So what's your understanding of the role SIG was to perform in relation to the university's contract with SNP?---Initially as ebb and flow, additional work that may have come in, extra ad-hoc-type work.

So - - -?---Surge, surge I think is the word in the contract.

Surge. So is it your understanding that perhaps from time to time SIG would provide guards to fill contracted positions?---I became aware of that

later on. Probably once the ad-hoc work got so significant, it certainly threw the contract itself into a bit of disarray. The amount of ad-hoc works that was being filled by, by SIG had also had an impact on the contract.

So is it your understanding that SIG was filling all the ad-hoc work?---I don't know about all, but certainly predominantly, it would have been predominantly SIG, which they were allowed to under the contract. There was no, yeah, yeah, SIG, yeah.

10 Now, do you have any knowledge about SNP staff performing extra shifts at the university through SIG?---No. SNP are SNP, everything should be going through SNP, their processes.

So if an SNP employee was to perform overtime work at the university, you would expect they'd be paid by SNP for that work?---That's right, I would, yeah, it's SNP. The contract's SNP so - - -

20 And you'd expect, would you not, that overtime work would sometimes carry a higher rate of pay for the guard?---We had a - I'm just trying to remember with the contract. I don't think that's the case because - - -

I'm not asking about the contract, I'm just asking generally. Overtime work in the security industry, for which you're a licensed security consultant, would you understand that overtime work generally attracts a higher level of pay for the guard on an hourly basis?---Oh, I can't comment on that because I don't know and it's wasn't the case at the university. There was a flat rate of overtime in the contract.

30 So you've got no knowledge as to whether, for example, a guard performing a public holiday shift might be entitled to a higher rate of pay?---Are you talking broadly now or with, with the contract?

I'm talking broadly, not under the contract.---Oh, you would, you would expect that if somebody works a public holiday they, they may be entitled to those additional rates, the award rates, yeah.

Perhaps if they work night shifts they're entitled to more, would you agree with that?---Yes.

40 And weekends?---I don't know about weekends. There might be a seven-day roster or something.

Now, was it ever brought to your attention on any occasion that SNP staff were performing additional shifts through SIG?---No. Not that I recollect.

If Exhibit 71, page 286 can be brought on. Sorry, that might, sorry, that's the wrong number. Just bear with me. Exhibit 40, page 35. This is an

email from Mr McCreadie to you of the, on 26 October, 2016. See that?
---I'm just reading it. Daryl McCreadie to me, yes.

Subject, "SCA protest, removal of guards."---Yes.

So that related to, I suggest, the eviction of the protesters at Kirkbride, the
Rozelle Campus. Do you remember?---Yes, sir.

10 And that was a matter that you liaised with the NSW Police to ensure that
there was adequate security on-site for that eviction activity?---Yes. Yes.

And that's because, quite properly, you realised there was a risk that if
something went wrong it might create some security issues.---Yes.

So a significant number of guards were arranged for those activities,
correct?---Yes.

20 And this is in this week, yes, specifically the eviction occurred on 25
October, did it not?---I'm not exactly sure on the date.

Just assume that for me for the moment.---I'm, I'm taking it from yourself,
yes.

And there was a concern as well, wasn't there, that even if they were
evicted, they might then go and create protests on other parts of the
campus.---Yes.

30 And there was a concern that they could even come back to Rozelle and try
and get their way back in.---Yes.

And that was in circumstances where those protesters had occupied the
building for some 62 days.---Yes.

And so as I understand they were - - -?---That's exactly how I felt too.

- - - they were sleeping in one of the buildings.---Yeah, I think the head,
yeah, the dean's, took over the dean's entire office block. Barricaded
themselves in.

40 And during the day they might come down and perform some sort of active
protest, but generally a peaceful protest, is that fair?---Yeah, the concern
there more was that additional people would come and try and actually get
in at night, so I think that, trying to remember, there were more at night,
guards in the night than the day because they'd all go and get on the, on the
beverages and then come down and try and get in with their colleagues.

Oh, right.---Break in rather than break out.

So there was a greater concern that people might try and essentially trespass on the property at night?---Yes. Or join them, yeah, join them. Go in and try and get in and join them. So we had, at least we had in there, we might have had half a dozen or a dozen, we weren't sure, but we didn't want to be dealing with 40 in there. So it was, it was, it was a concerted effort in the evenings to try and limit that.

So a number of guards were stationed there during the evenings during the eviction week at Kirkbride?---I think, I think for the 62 days.

10

But during, just focusing on the eviction week, there was a major concern, is it fair to say, that people would come back and try and force their way into the building?---Yeah, that's, that's our risk assessment, that's our brief.

So that was your risk assessment, and that applied not just on the eviction week but throughout the 62 days I think you just said?---Yeah, pretty much, yeah.

20 You gave some evidence that I think you worked till 3.00pm and that there were no university team leaders to check what was going on in terms of security activities on the campus probably beyond that time. Is that fair?
---No university personnel in the security team to do, to check, yes.

30 So you've got this risky situation going on out at Rozelle where, on your evidence, the riskiest time appears to be at night. What did you do, if anything at all, to satisfy yourself that security guarding services were being provided adequately at the Rozelle Campus at night.---So pretty much checking my phone records, ensure that I speak to the team leaders nearly every night of the week or vice versa. I have after-hours contact with them at least six days a week. Weekends, nights. That's the best you can do remotely. Is the team there? Any issues at Rozelle? It's, you've - - -

THE COMMISSIONER: Were you entitled to work overtime?---No, sir. If I did I would get managed, managed time, not, not on overtime. But certainly on, I mean, the expectation, you couldn't have me there for 62 days but the expectation is I run four or five multiple campuses plus international. So you've got Cumberland, sir, you've got Camden, you've got Rozelle and 70 acres in the city. It's, you've got 65,000 people.

40 Why are you telling me that?---Well, I'm just trying to explain myself that after hours, I mean, things can be happening even at Camden, sir, that I'm managing here. I can't physically be there but you do your best.

I think you said - - -?---You ring, you ring them remotely, you talk to them.

Did you just a moment ago say "managed time", not overtime?---I have no overtime, no.

MR ENGLISH: So I think you answered in response to a question by the Commissioner that you realised that there was the potential for fraud going on in the Campus Security Unit, and you might have raised it with Mr Sullivan in the context of getting internal team leaders. Is that what you said?---No, no, the, the, it's about the supervision. No, the supervision after hours. There is no supervision by a university staff member. It's all, it's SNP managing SNP.

10 Yes, all right. So you - - -?---That's, that's the issue. Nothing about frauds or anything.

Well, I thought that was in the context of potential fraud?---No, no, sir it was the ad hoc. We were talking about the ad hoc, that as more ad hoc work came, it was all after hours, and we thought obviously if there may have been an issue, team leader, the university team leader, will be able to account for people, go out, have the university's interest, not SNP's interest or SIG or whoever.

20 And you raised that with Steve Sullivan as a concern?---The, yeah, the, the need, we should have, we should have university staff as team leaders, and there was a business case even prior to that. I'm sure Mr Andrews put one in and I was part of that as well.

30 And did you say to Mr Sullivan at around that time, oh, there's so much ad hoc work. A lot of it is occurring at night. We don't have vision over what's going on. We're really just trusting these people to do the right thing.---I think it was in general terms, not specific about the ad hoc, but the fact there isn't a trained university person or a staff member on around the clock, university team leader. There's so much going on at the university 24 hours a day now that, realistically, there should have been a university staff member.

Well, given that you're responsible for "Building security teams' capacity to protect the university's operations, including providing leadership and direction to all security coordinators, team leaders and officers to conduct operations, while ensuring the unit maintains the highest ethical standards," shouldn't you have done something about that?---I did, I raised it. I raised it a number of times. We raised - - -

40 You just said, "Oh, we've got a problem here. We should do something. See you later"?---Who said that?

Is that what you said?---No, no. It was - - -

What actually happened? You raised it. Did anything happen?---You asked. If you don't get, you get on with it.

Yes, but you've got a responsibility under your position title to do something about these things.---Ringing in of an evening. "What's happening? You got a full team? What's happening there?" That's the best you can do as, in my position.

So you see a security risk and you say you discharge your responsibilities by raising it with your manager, and that's it?---Not discharging but I, I raised it. That's, that's my role in the scheme.

10 THE COMMISSIONER: And telephoning in?---Well, that's the best you can do, Commissioner. You, and you're talking to them around the clock. You're assured that people are in place. You know, "What's happening at Rozelle? Are they there?" "Yes." "Any issues?" "No." "Have you been out there to inspect them?" "Yes." Which was probably all now a lie.

MR ENGLISH: All right. Let's look at this document.---Yeah.

20 Exhibit 40, page 35. See the question in the middle of the page? What happened was, I'll just give you a bit of context. Go back to page 32. Mr McCreadie sent an email to roster@sig. Now, you understood that was Frank Lu, didn't you? That he was performing the roster duties for SIG? ---Sir, it was probably two days before I left that Frank actually told me that he was doing rosters for SIG.

And you had no understanding of that prior to two days before you left? ---Not that I remember, not that I recall. Not that I recall but he said, oh, I've been doing rosters for SIG.

30 Well, you see this is an internal email to Rosters, Mr Balicevac and Lynn. Do you know who Lynn is, Lynn at SIG?---No.

And then there's a question down the bottom, if we just go up a bit. "Can you please check, time sheets attached." Do you see that?---(No Audible Reply)

And in the middle there's that question that I drew your attention to, see that one?---Yep.

40 And it appears that if we go over to page 35, that Mr McCreadie copy and pasted the contents of page 32 minus the question at the bottom but he forgot to take out the question that he asked in the middle of the page. Do you see that?---And the time sheets not there, is it, or the, when he sent it to me, or - - -

No, there's not an attachment, no. So this is the type of email, given that this was a potentially high risk activity going on, generating a lot of ad hoc costs, that would have paid particular attention to?---And sorry, the date, is the eviction, so this is post the eviction, am I correct in saying?

This is on the 26th and the eviction activities occurred on the 25th, so it's the day after. So he's telling you the summary of costs for removal of the protesters was \$27,000 for one day.---And that's what I would have been focusing on.

10 So your evidence, you wouldn't have read the question that can be seen towards the middle of the page?---I would, I wouldn't have, I would have been concerned to, the eviction's occurred, I would have been concerned with that cost in the first paragraph.

Because what I suggest is being raised in that question is the possibility of those two guards swapping over from SNP to SIG employees to finish the balance of their shift. Do you agree?---I'm not sure in reading it now, exactly what, but knowing what's happened, I, now I'm reading it but I wouldn't have read it at the time. It would have been, at the, I would have stopped at the total at costs.

20 Well, does that say anything about the level of detail you paid to your activities as the security operations manager at Sydney University?---No.

What, that you only read the first paragraph of emails?---This is a summary of cost of removal so they will remove, the rest, the rest appeared to be shifts, you know, just shift outlines. So that's, no, that's, my detail in there is the, is the cost of that that would have been reported, not the lines, it was my focus on what that email appeared as an individual email.

30 So did you not pay attention to the individual guards names that were assigned to perform certain shifts?---Sometimes I wouldn't even know the guards.

Yes but I'm talking about their names. Did you pay no attention to that sort of information?---Sometimes you paid attention to names but most of the time you, you may not even recognise the name. They're all, if they come in, you're got 70 people there, if I went down that list there, I'd recognise a few but not many. And these would have all been ad hoc, ad hoc work, of course, for the SCA.

40 So you're aware now, are you not, that the practice that was occurring within the Campus Security Unit, is that guards names and licence numbers were being entered in to time sheets in circumstances where that person didn't turn up to do the work, are you aware of that?---So when you say didn't turn up, I know there's some differentiation there about what - - -

The person whose name was inserted in to the roster, on occasions, did not turn up.---Was it, you're saying, are you talking sort of, trying to get it in my head still because I never heard of the term ghosting either, before all

this happened but are you saying no one turned up or someone turned up under another name?

No, the person whose name appeared in the time sheets that was fraudulently used didn't turn up to do the shift, the particular person.---Oh, right, the person. Okay, that's, yeah, there's some evidence, yeah.

10 So a false name is used in the time sheets, sometimes a guard would complete the shift that was attributed to the ghost or a false person's name outside of their regular hours. Do you understand that?---Yes.

An example might be locking and unlocking tasks, where they'd finish their primary shift and then go and lock or unlock a building. Do you follow?
--Yeah, I'm following. I'm just trying to work out the times of those because they're, they're quite a specific time to unlock and lock the buildings but, yeah.

20 Well, opening up's in the morning, generally, isn't it?---Yeah, 6.00 and 10.00. I think they were four hours and - - -

So a guard might come in early and do the unlocking duties and then do their rostered on shift, right?---Yeah, there wouldn't have been many starting at 10 o'clock, the shift, that's, anyway, but yep.

30 Another form might be where a guard would perform two or more concurrent shifts at the same time. So they'd perform their rostered shift and then at the same time perform another shift using a ghost guard's name and licence number. Do you accept that?---So you're saying, so they're, they're in there on a night-shift and they're claiming, what, for a - - -

For another shift at the same time.---Oh, sorry, then it might be at another campus or the library or - - -

Well, it could be on the main campus, it could be on another campus anywhere.---Right, yep.

40 So you understand that's what the evidence shows occurred on occasions?
---I, from what, the limited view I've seen of everything, but, taking what you're saying - - -

THE COMMISSIONER: What do you mean limited view? Limited view, is that a reference to the livestream?---Yeah, yeah. Yes, Commissioner, yes, yes.

I think you told me a little earlier that you did watch it but not very much.
---No, not very much, no.

You're aware, aren't you, that one of the allegations which the Commission is investigating is whether, in the exercise of official functions by, amongst others, any employee of the University of Sydney, in effect that their exercise of official function was compromised by bribery and fraud?---I, I thought that was in the, in the summons, yes.

And you've been here on a past occasion, haven't you?---Yes.

10 And you were questioned about gifts and benefits that you might have received, weren't you?---Yes, Commissioner.

And you're telling me on your oath that, in respect of the livestream, you watched it but not very much?---Well, I, I'm not sure what you mean by very much but I, I watched - - -

Well, I'm using your words.---Yeah.

20 Weren't you vitally interested to find out what might be alleged against you?---But I haven't done anything wrong.

That's not an answer to my question. Weren't you vitally interested to find see what allegations might be made against you?---I would be answering there here today but no.

Well, didn't you, for example, listen to every word that Mr Balicevac said about you?---No.

30 And are you saying on your oath that you're unaware of what he said? ---Well, what some of that said, not all.

Just some of it. And, what, you watched a bit and turned it off, is that what you're telling me?---It would be, I mean at had some, I had some going, making some notes when the Commission started and some days I, I'm not able to watch it or you'd turn it on, you'd walk away, you'd come back and listen.

You're not employed at the moment are you?---No, no.

40 So you had plenty of time to watch it?---Well, I've had, I've had time but - - -

But you weren't sufficiently interested?---Well, I'm interested in the process, yes.

Weren't you interested in what Mr Balicevac said?---Not just him, I'd be interested to what everybody's got to say but you just can't sit there for eight hours or seven hours a watch a livestream.

I see. And your evidence is you did watch it but not very much?---Well, I've had it on but I'm not saying that I've watched it a lot.

No, thank you.---(not transcribable)

MR ENGLISH: There's just one further aspect to the ghosting practices at the university, I just want to make sure that you understand. There were occasions where someone's name and licence number was falsely entered on the time sheet and a payment claimed for a shift but nobody turned up to perform that shift. Do you understand that?---Yes.

Now, I've just showed you Exhibit 40, page 35 on the screen, that email from Mr McCreadie to yourself where you said you didn't go below the first paragraph and you certainly didn't see that question that was raised. Do you recall that?---Yes.

Now, you'd remember, would you not, if someone from SNP told you that our guards are doing overtime through SIG, wouldn't you?---SNP guards?

20 If someone from SNP said to you, "Our guards are doing overtime through SIG," that's something you'd remember, wouldn't you?---I, I don't recall anyone saying that to me.

If you received a letter from someone at SNP on SNP letterhead, is that something you received regularly, correspondence of that nature?---No, it would be billing is what I would receive.

It wouldn't be like a letter, would it?---No, but it's an SNP letterhead, an SNP letterhead.

30 Yes. But what about a letter addressed to you?---I don't recall too many letters.

And if you got a letter from someone at SNP on SNP letterhead that was addressed to you, would you just read the first paragraph or would you read the whole letter?---I'd be reading the letter.

40 If Exhibit 71, page 286 can be brought on the screen, please. Just hold on one second. If that can be brought up, please. This is a response that was provided to you by way of a letter on SNP Security letterhead to the KPMG audit. Do you remember when that occurred, KPMG audited in around July 2016?---I do remember the audit. I didn't get to participate in any of the interviews at the front end, but I was given a document at the back end.

Well, I might ask some questions about that shortly. And as a consequence of some concerns raised in that audit, SNP Security provided this letter to you, did it not?---Does it go over, is there more?

Yes, it does, yeah.---Right, okay.

If we can just go back to the first page, please.---Darlene. Okay. All right.

Now, is your evidence before this Commission that you read all of this, part of it or none of it?---I would have read the document.

10 Okay. And just have a look at the fourth paragraph. "SIG employs its own staff and some SNP employees choose to work for SIG on the university campus."---Okay, so I'm reading that, it sort of suggests it but I, I didn't actually recall it.

Right.

THE COMMISSIONER: What didn't you recall?---Well, what I'm reading there, that they're encouraged to work for SIG. "SNP employees choose to work for SIG on the campus." So they're aware of it and - - -

20 MR ENGLISH: And so are you, aren't you?---Well, if I, I would have read it in 2016 but I'm not recalling it.

THE COMMISSIONER: So you were unaware?---I wasn't sure of the practice.

30 MR ENGLISH: All right. Well, maybe if we can go to page 193, please. Sorry, Exhibit 71, page 193. Sorry, it's 198 I'm sorry. Sorry, that's 198 for the record. This is the report from KPMG that the university had commissioned in July 2016. You've seen that report before?---I'm pretty noncommittal because I'm not sure I have seen the actual report, I'm just not sure, because I had no, sort of just a time sequence here, Mr Andrews would have been the manager so all this would have went through Mr Andrews until he left and so I remember the back end of the, the document, I'm not sure I actually read - - -

40 What's the back end of the document?---That I was asked to respond up the line to Mr Sullivan on the, on the, might have been the synopsis of the report or the actual SNP documentation, I can't exactly remember, but if this is - can I ask how many pages this would be, is it a, are you talking 10, are you talking 50?

10 or something, yes.---So I may not even have seen this.

THE COMMISSIONER: Why? Why do you say that?---Well, I may not have seen it, Commissioner, because if it's, I was given a role at the end of it I, I, I'm cognisant of that.

How would you respond to it if you hadn't read it?---I think I got a synopsis or a brief or a page or, again it's two or three years ago, I'm just trying to

remember, but I, I do know that the university was asked to comment on some, some things and we sent some documentation to SNP which is obviously that, that first response we got back, and that's kind of where I came in, and then made some recommendations I think back up the line to the divisional manager. Remembering no manager at this stage.

MR ENGLISH: So is this when Morgan Andrews was on leave?---No, no, he would have, he would have left.

10 So July 2016 he's not there?---Well, July/August, I'm not sure.

So you're performing his role at this time, are you?---Well, not officially, no, I didn't sign on to perform the role.

But I thought your evidence was that he had the - - -?---I was filling two positions and I never officially signed on to perform that role, I was never given relieving, I was, never signed duty statement for it, but I offered to help out as best we could because it's going to be two jobs that would have to be done.

20

So is your evidence that as at 26 July, 2016, you were performing the role of manager Campus Security Unit?---Not performing, well, I'm filling operations manager and I'm also filling part of that role, not officially, I was not signed on by the director, so I'm actually covering two positions as best I can.

Well, you're acting in the role, aren't you?---Not acting in the role, I never signed a document to say I was acting, I was never given relieving money, never given a job description, I was acting in the job as best I could.

30

You're just making that distinction because you know it assists your case. Is that right?---That's the truth.

You're saying a document such as this – if we go to page 209, please.

THE COMMISSIONER: You might recall that previous document you were shown was addressed to you, so presumably you did something - - -? ---Definitely had a role at the back end.

40 Just a moment – that caused it to be sent to you. What was that, did you send them a letter, did you ring them up?---Yes, no, we would have sent, I would have sent them a, I would have sent them some of the findings and I'm pretty sure I've sent them some of the findings because they were around SNP and we required a response from the CEO at SNP and obviously that lady's not the CEO, but response came back and then we interpreted that back up the line to the university about what their responses were and what, what role they played.

And the issues that have been raised in relation to SNP were issues, as you understood it, in the audit report?---Yes, yes.

And you are uncertain as to whether you read that report?---It was a large document. I don't recall like reading a 22-page document, but - - -

No, it's not, it's 10, you've just been told that.---Right. So 10.

10 MR ENGLISH: That's right, it's 10. So you can see there that there's key meetings and one of them is identified as being Morgan Andrews. I'm not suggesting you did step in in his place to participate in any meetings with KPMG, but - - -?---I can tell you I didn't. There's no anticipation. I never participated in one front-end meeting or any meetings with the - - -

All right. And then can we go to page 199, please.---That I can remember.

See the distribution list?---(No Audible Reply)

20 This report says it was sent to Morgan Andrews. Now, if he wasn't there wouldn't that have meant it came to you?---It depends on the dates. What was the date?

26 July, 2016.---I'm not exactly sure when he, I think he might have still been in there in July. I'm not sure of his end date. It was around August or - I'm not exactly sure on his end date but it's around that time.

Well, if it was - - -?---If you could - - -

30 If Morgan Andrews was there wouldn't one expect that the letter that came back from SNP would be addressed to him and not you, if he were dealing with it?---I sent that, I sent that correspondence to SNP so it would have come back to me.

What correspondence?

THE COMMISSIONER: As I understood your evidence you did that - - -? ---Yes.

40 - - - because Morgan Andrews wasn't there.---Yes, but I'm thinking, so I'm not sure if there's a lag in the dates of this report and when I sent the other report. Is there a month gap or - I didn't check the date, sir, but if there's, is there a gap in when this documentation was produced and are we talking a month gap? When did, when did I get that documentation to send to SNP?

MR ENGLISH: Well, it's dated 26 July, 2016.

THE COMMISSIONER: That's the letter from SNP, is it, Mr English?

MR ENGLISH: Sorry, the letter from SNP - - -?---I thought it would have been at least August or something.

- - - is 23 August, 2016.---Okay, we're talking a month there, so that's, I'm pretty sure it's across the transition but I don't exactly remember.

Did you say you at least read a synopsis of this document?---Well, I, there would have been an outline for me to send to SNP.

10 You would have read the executive summary, wouldn't you?---Well, I'm not, I'm not committing to that because I don't exactly remember. I would have got a document, but what that document was, I'm not too sure.

THE COMMISSIONER: And whatever the document was, it outlined the issues that SNP had to address?---Yes, it would have done that.

Thank you.---Yes.

MR ENGLISH: If we can go to page 200, please.

20

MR GIVORSHNER: Sorry to interrupt, what Exhibit was the - - -

MR ENGLISH: 71.

MR GIVORSHNER: That you've just given to him.

MR ENGLISH: That's 71 as well, and that is page - - -

MR GIVORSHNER: 286.

30

MR ENGLISH: 286, yes.

MR GIVORSHNER: All 71?

MR ENGLISH: Yes. So see this executive summary? Does that look familiar?---I, I can't say that I've read it or I didn't. I can't commit. I just, I don't know. I don't remember.

40 It's looking into, would you agree, an aspect of security operations at Sydney University that, certainly while you were performing the two roles, fall directly within your remit?---I haven't, if I haven't read it, I - - -

THE COMMISSIONER: No, well, read it now if you need to.---Okay, so that, that is the exec summary. One page, is it, sir?

MR ENGLISH: Yes, it is. So I just want to draw your attention to, well, firstly, having read it, does it sound familiar? Is it something you've read? ---I've read it now, sir. I - - -

The second-last paragraph.---Yes.

“The university operates in an environment where ensuring that contractors engaged by the university are complying with relevant regulations and awards, are engaging in practices that are ethical and in line with the university’s objectives, and that’s critical to protecting staff’s rights and managing the university’s reputational risk exposure.” See that?---Yes.

10 That’s somewhat similar to your number one job description, isn’t it? Ensuring that at least for the Campus Security Unit, it was engaging in practices that are ethical and in line with the university’s objectives.---It’s, it’s, it’s a paragraph of, really a motherhood statement.

I didn’t ask you to describe what it is. I said do you see a consistency between what’s said there and your number one position description objective?---Without having it there, there might, there would be some overlap, yes.

20 Just look at the last sentence of the last paragraph.---Yeah, ah - - -

It talks about the cost of the security contract and then says, “Thereby it is important that the university as well as SNP exercise an adequate level of oversight over the operations of the contractors and any subcontractors engaged.” Do you see that?---Yes.

It was your evidence I think very early on that oversight of the operations of the contractors was SNP’s responsibility, is that right?---Oversight of the contractors?

30 Oversight of SNP you said was – sorry, I withdraw that. I think you said that oversight of the security guards on campus was a contract issue and it was therefore SNP’s responsibility.---Certainly a primary responsibility of theirs under the contract.

That’s the distinction you’re drawing because you know it suits the evidence you’re giving before this Commission, correct?---No.

40 Here’s KPMG, top-tier accounting firm, that’s been brought in no doubt at great expense to the university to write this report, and it’s saying right there that it’s important for the university to exercise an adequate level of oversight over the operations of the contractors and the subcontractors engaged. Do you see that?---I’ve already suggested that it was difficult to do that when you don’t have a university person around the clock to do it.

Well, I mean, now, if you read this, you acting competently would have said we’ve got to do more, don’t we, because we don’t have an adequate level of oversight over the contractors and the subcontractors. You would have

gone up the chain and said we've got to do something about this, do you agree?---I did raise it with the divisional manager. And the business case, I'm not sure of the date of the business case. It was before this, I'm pretty sure it was even before this. We raised it before KPMG came in at great expense to do it.

Well, then they came in again and said it's still important, and what happened after that?---Still didn't get the team leaders.

- 10 Right. So just as long as it's off my desk, who cares? Is that the attitude?
---No, I pretty much worked around the clock for the university, so, no.

So what did you do – other than just raising it as an issue, on your evidence, with Mr Sullivan – to ensure that there was an adequate level of oversight of the contractors and subcontractors engaged at the university for security purposes?---Whatever I could within my, my time that I was on the campus.

Just go over to the next page.

- 20 THE COMMISSIONER: Just before we go on, can we go back to that page. To your knowledge, was anything done by the university to address the problem they've identified in the last sentence? Namely that "It's important that the university as well as SNP exercise an adequate level of oversight over the operations of the contractors and any subcontractors engaged." To your knowledge did the university do anything to address that issue?---I don't think so, Commissioner.

Thank you.

- 30 MR ENGLISH: And can we go to page 201, please. You can just see the summary of observations.---Okay, yes.

"To accomplish the principal objective of working with a service provider that is compliant to legislation and policies in addition to a good service quality, it is fundamental that the university has robust processes in place for governance over the contract or operations, and that these controls are built in as part of tendering and contractual requirements." Do you see that?
---Yes.

- 40 It goes on to say, "Additionally the contractors should be able to clearly demonstrate the effectiveness of the controls they have implemented to meet any contractual and regulatory requirements." See that?---Ah hmm. Yes.

Did you, well, before I ask that, again that suggests that the university has an obligation to adequately ensure – I'll withdraw that – to ensure that the contract is being adequately performed by SNP, do you agree?---That's the recommendation. Observations.

And do you agree that it's somewhat at odds with your evidence that it's just for the service provider to ensure that it's delivering the services to an adequate level?---So it does talk about the contractor in the next sentence in terms of the university. They are talking about the university.

Who would the contractor demonstrate it to if it wasn't anyone but the university?---Yeah, no, I'm saying the university, yeah.

10 And did you do anything to ensure that these observations were being met at the university?---I'm not, I, I'm saying, well, firstly, this is probably the first time I'm reading this. That's what I'm suggesting, though. I'm not sure I got the document, all this here, so I'm reading that, that sentence for the first time, I would suggest to you, that I can remember.

So is the answer to that question no, then?---Sorry, what's the question again? It's - - -

20 Did you do anything to ensure that this observation contained within the report was being met by the university? You said this is the first time you've read it, so the answer's probably no.---Well, I, yeah, I, look, I, nor was I requested to, to provide something around those lines either. I can't recall actually being requested to provide something around it.

THE COMMISSIONER: In your opinion, Mr Smith, were there robust processes in place for the governance over the contractor operations?
---I thought within reason that, that the, you know, it's a contract, it's a large contract, it seemed to be fairly tight, there were certainly some gaps around the supervision after hours but - - -

30 What were the robust processes in place for governance over the contractor's operations?---They were the checks and balances we could do within the limitations of the unit, they had a finance section, they would obviously review all the finances, we would review the invoicing as best we could, go through the ad hoc especially with a fine-tooth comb.

40 You went through the ad hoc with a fine-tooth comb, did you?---Every month I would send back with Mr McCreadie invoices, they come in, they don't come in names of course, they come in positions and hours and every month we went documentation back and invoices back to SNP, maybe two or three times, with errors and corrections or withdrawals, in fact whole invoices.

So it's your evidence that - - -?---I was certainly finding gaps, certainly finding mistakes.

But I'm asking you whether you're of the opinion as the security, you were of the opinion - - -?---Yes.

- - - as the security operations manager - - -?---Yes.

- - - that the university had in place robust processes for governance over the contractor operations.---I guess it could have been better, knowing what we know now, Commissioner, but at the time it seemed adequate.

And do you agree that it seems as though KPMG thought it was inadequate?
---They're certainly suggesting there could have been some improvements there, by reading the, the synopsis. Could ask, sir, the SNP response, did they not deny – I just can't remember, I thought they'd - - -

MR ENGLISH: We'll come to that.---Okay.

We'll come to that.---Yeah.

THE COMMISSIONER: Sorry, Mr English, you go on.

MR ENGLISH: Did you know, are you aware whether the university did anything to improve its processes of governance over the contractor operations and to ensure that the controls were built in as part of the contractual requirements?---I'm sure the university as a, as a whole did.

Well, did you ever in a meeting discuss this observation with any of your peers?---I don't recall that because I'm not sure I've read this observation or I had this observation as a holistic approach to talk through.

Well, did you ever sit down with anyone from the security division of the university and discuss this report?---At this time, so we're talking now that there is no manager, so the conversations would have been with the divisional manager. I do recall a report going up the line of some type but just exactly - - -

I asked if you had a meeting to discuss its contents, did that ever happen?
---Yeah, we had, yes, I certainly had a meeting with Mr Sullivan around, around what we were able to do at the front end, without refreshing my memory, but there were certainly things we were going to try at the front end of what we were able to do at the front end, but there was some responsibility on the university, we thought that some governance at the back end, certainly we weren't able to do, that went up the line.

40

See, "Positive Observations?"---(No Audible Reply)

See that, the first bullet point I'm drawing your attention to?---Yes, yes.

"Formalised reporting by SNP on key performance indicators established in the contract that are regularly reviewed by the security team."---Yes. I'm not – positive observations, is it, sorry?

Yes, under "Positive Observations."---Yes.

So can you tell the Commissioner what's your understanding of the formalised reporting by SNP on KPIs that were regularly reviewed by the university security team?---Yeah. So up until 2016, August, until Mr Andrews left, he managed the KPI meetings, he had his own system of what he did with SNP so I would sit on - - -

10 And you sat in on those meetings?---I would sit on most of those meetings but he ran those meetings.

THE COMMISSIONER: Was there formalised reporting by SNP?---There was formalised reporting every, every month. Mr McCreadie and I would, after that we would meet, some of the KPI data may not have been included every month for a number of reasons, we couldn't get the data or Mr Ledford was off sick as we were going forward, but there were certainly KPI reviews going around the three work orders that we managed in operations and a fourth work order that the security systems team managed in electronic guarding.

20

MR ENGLISH: What were the formal reports you and Mr McCreadie worked on?---They're an A5 document, or it's not an A5 but more like an A3 document which outlined a number of KPIs in, in certain criteria.

THE COMMISSIONER: And that was a document created by SNP, was it? ---I thought Mr -- I'll stand corrected on the creation, sir, because I know I didn't, but I'm not sure if it was an SNP or Mr Andrews' creation when he was the manager. KPI, certainly SNP had a role in coming and informing the university as a whole how they met the KPIs.

30

But my question to you a little earlier was this, was there formalised reporting by SNP on KPIs.---Yes.

And what form did that formalised reporting by SNP - - -?---Yes.

- - - consist of?---It came in the form of a monthly meeting where there are actually notations made on each of the, each of the KPIs.

That's not formalised reporting.---That - - -

40

It sounds as though what happened is that Mr Morgan Andrews, or Mr Andrew Morgan, isn't it?

MR ENGLISH: Morgan Andrews.

THE WITNESS: Yes.

THE COMMISSIONER: Morgan Andrews prepared his own document, you all then sat down at a meeting and discussed it.---Yeah, SNP had to come along, I remember those meetings, but they had to come along and discuss how they met, met the KPIs, but it could well be a Mr Andrews, I don't know where the document came from, sir.

MR ENGLISH: All right. Well, we'll come back to KPIs in due course.---Okay.

- 10 In the box there's some observations. Above that it says, "The internal audit highlighted three key areas relating to SNP's existing processes and controls which require attention." The first one said, "Practices exist to circumvent payment of overtime allowance to SNP staff, resulting in non-compliance to the EBA." Do you see that?---Yes.

You must have had that issue brought to your attention at around the time you either got this report or a synopsis of it?---I remember that being one of the, one of the dot points that went to SNP to answer.

- 20 Did that raise any concerns in your mind as to practices of SNP or SIG at the time in relation to overtime allowances?---Without refreshing my memory on the actual SNP response, I think they denied the practice existed.

No, well, I asked at the time did it raise any concerns in your mind?---Well, it was just, it's here as a significant issue so we certainly wanted it answered.

Okay.

30

THE COMMISSIONER: What was your understanding of the practices which existed to circumvent payment of overtime, what practices did you understand?---I didn't understand there was a practice there.

Well, the auditor's indicating that there was a practice that they'd identified, are you saying that you didn't, you had no knowledge of what that practice might be?---No.

As the security operations manager.---No.

40

Thank you.

MR ENGLISH: If we go to page 203 you can see the key observations, and again the significant issue in red. Did you see this at the time, do you recall?---No, I don't.

It says, "On performing a reconciliation between rosters, sign-in/sign-out books and payroll data for a sample of 10 staff, internal audit identified

practices that could potentially circumvent SNP's obligations relating to payment of overtime allowance to security guards." Do you see that?
---Sorry, just steer me back to that, I've lost (not transcribable)

It's the second paragraph under 1.1.---Okay. Okay.

10 So you see it goes on and talks about, "Following discussions with SNP it was noted that this was due to a few security guards working both as SNP staff as per the core roster and SIG staff for extra shifts over and above the roster at normal rates. It is also noted that beyond the issue with overtime allowances, this practice may pose an occupational hazard to staff who work on a continuing basis without adequate rest breaks between shifts." Do you see that?---Yeah, okay, yeah.

20 So did you see, does that jog any memory that you might have seen this at the time, this concern raised by KPMG?---No, as I said, I think it's, this has come in a changeover period and I'm not sure I've read this document or had it presented to me, so I'm just standing corrected there but I can't physically remember reading this whole observation document. I do remember sending key findings to SNP and that seemed to be where I've, I've come in on the actual process.

And then you can see it says, it breaks it down into some specific discrepancies. Firstly, overtime not paid to staff.---Sorry, are you down the bottom, are you?

See (a)? Overtime not paid to staff?---(a), sorry, overtime, right, right, sorry, yes.

30 Now, as a university employee you'd be concerned to ensure that staff performing security guarding functions on the campus were paid in accordance with relevant awards and legal requirements, correct?---Yes.

I mean, as a licensed security consultant, you'd want to see that happen, wouldn't you?---As a manager I'd want to see that.

40 And working beyond hours/days specified in the EBA. Again, you wouldn't want to see people working to lengths that created occupational hazards.---No.

Now, if we just go back to the document that I showed you before, which is page 286 of Exhibit 71, this response was then provided directly to you.
---Yes.

And I again ask you, in light of those matters, this is a letter you would have read in its entirety and passed up the chain?---Yes.

Who would you have given this letter to?---It must have been the divisional manager because I had no manager, remember, at the time.

Is that Mr Sullivan?---Yes.

10 It goes on to say at 1.1, “SNP complies fully with its obligations and responsibilities under the industrial instruments applicable to its employees engaged to perform work on the University of Sydney campus side.” Further down, “No practice exists to circumvent the payment of overtime to SNP employees.” Do you see that?---Yes.

It says, “SNP uses a subcontractor, SIG, to cover ad hoc works, (not transcribable) demand areas of security and peaks in security demand, often a result of one-off or infrequent security needs at the university.”---Yes.

20 Then it goes on about that paragraph that I drew to your attention. “SIG employs its own staff, and some SNP employees choose to work for SIG on the university campus. No employee of SNP is either required or encouraged to work for SIG by SNP.”---Ah hmm.

So you were clearly on notice as at 23 August, 2016 that SNP guards were working for SIG, correct?---I’m reading that there but it wasn’t something that sort of (not transcribable) stuck in my head. It’s certainly there but - - -

Well, did you ever think at the time maybe we should get a similar confirmation of matters like this from SIG?---I, I, no. It wasn’t my determination where this went. I was asked to get a response from SNP, from senior management, and that’s what I did.

30 Well, you knew that SNP was charging a flat rate for all of its ad hoc work, correct?---Certainly for the overtime. I can’t remember the ad, the ad hoc, but probably, well, that’s overtime, okay, so - - -

So the overtime, was it? So for the overtime you knew that SNP was charging a flat rate.---Flat rate, yes.

How much was that initially? \$34 or something?---Yes, it was around 34 and a half or something, but I stand to be corrected.

40 Now, I think you even spruiked that to the university as a potential cost-saving measure because most of the other tenderers in 2015 were saying that they were going to charge on a scaled rate, depending on what day of the week it was. Do you recall saying anything like that ever?---Well, it would have been a, because of the rate of overtime and extra work on the university, it would have been a significant saving, so I probably would have raised it.

So in line with your duties as a manager to ensure that people were paid legally in accordance with their proper entitlements, did you ever think that maybe we should look into the rate that SNP was offering for overtime to see if it's actually legal?---That, that wouldn't be my decision as a manager. We've got, we've got divisional managers and contract managers and procurement that would, would have done that at the start of the, the contract. I'm not sure they're arguing that there.

10 Did you ever say there's this issue with overtime, proper payment of overtime that's been raised. I'm hands-on as the manager of operations. I know that SIG's doing the bulk of the ad hoc work, which is outside of contract. Maybe there might be an issue with the rate that's being charged by SNP for this work. We should look into it. Did you say anything like that to anyone?---I'm not sure that's the interpretation I, I – I've presented this and a number of dot points and it would have went back to Mr Sullivan. We had a discussion around what we were able to do at the front end, and I thought there was some discussion around the back end which would have to be high-level CIS. We're talking finance, we're talking business managers. We're, we're just down on the ground.

20

What's your distinction between the front end and the back end?---Well, I'm just talking what it could do on a day-to-day basis. I mean, these people are talking that they had access to payroll data when the KPMG came through and all that sort of stuff. We, we don't have access to that. Wouldn't even know what we were looking at.

Well, you're told here in this fourth paragraph, last sentence, "The university understands the role SIG plays in security at the university, and SIG is a nominated subcontractor under the university contract with SNP. Do you see that?"---Sorry, sorry, could the, someone put the pointer on that for me? Sorry, just the, where that was.

30

If it can be increased in size a bit too, please.---Sorry. Thank you. "No practice exists," sorry, is that where we're - - -

Yes, so "The university understands". A little bit higher. No, it's just in the, "SIG employs", in the paragraph "SIG employs". Last sentence. ---Okay.

40 So did you read that at the time and think, yeah, that's right, they are the nominated subcontractor - - -?---Yes.

- - - we should get some form of confirmation from them along these lines as well? That would be the proficient thing to do, would you agree?---No, because SNP manage SIG.

Yes, and we've just gone back and I've taken you through how KPMG say it's the university's responsibility to ensure that there's adequate

arrangements in relation to that relationship. Do you recall that? That was the key observation, I think.---Yeah. Well, it would certainly be a lot higher than, than my role there to, to try and interpret all that and ask that. At, at, at the front end we got a report. They were denying most of the, most of the issues raised by KPMG, from what I recalled, and there was no suggestion in the meetings we had with the divisional manager about going to SIG.

10 THE COMMISSIONER: You say that SNP denied it, but here you have the university's auditors identifying it as a problem. So why would you accept what SNP said in preference to KPMG?---Well, I'm not sure that - - -

Wouldn't you at least make some inquiries or review the material, or some of it, that they'd reviewed to satisfy yourself that what SNP were saying was correct?---And that's, that's exactly what I thought was happening. When I met with Mr Sullivan, I talked about the front and the back end. It was certainly some strategies that he was talking about that would go over to the business managers of CIS. I, I, I just can't exactly remember it, but I thought he was waiting for some information or some strategies to actually
20 come back to him from some of those people, Commissioner, that were raised in that, that are raised in that distribution list – Mr Fisher, Mr Sierra – who, who were significant business managers. That's my recollection of some of the meetings I had with Mr Sullivan and what we could do on the ground.

You'll see that the letter, it's addressed to you and it says, "Thank you for giving us the opportunity to respond to the KPMG audit feedback. Using the paragraph numbering of the audit and the key observations made, SNP advises the following." Now, it's clear, is it not – I withdraw that. It suggests that you were the person who sent them the KPMG audit feedback
30 document.---I, yes, I would have sent them that to comment on. Well, I'm not sure it's the exact document, but it would have been maybe a synopsis.

Well, it says that they used the paragraph numbering of the audit and the key observations made. I think you'll find that the numbering does, does correspond, and if that's so, it's, it's more likely than not, you know, that you would have read it before you sent it.---Well, I'm not sure if it still was just a synopsis rather than the 10 pages, Commissioner, is what I'm sort of suggesting. There are certainly numerical references there, but I'm not sure it's the whole 10 pages that, the university sent them or I sent them. I'm
40 just not sure on that.

MR ENGLISH: Just on what the Commissioner touched on, you say SNP denied it. You spent 26 or so years investigating crime, right? Yes?---I did, didn't spend it investigating crime. I was a senior manager there, but, yes.

How many times did an accused deny the allegation against them?---Yeah, certainly. I understand your point, but as I said, these came back. We had a number of meetings with Mr Sullivan, the divisional manager, and he came

to the view on some of the points we could do, and he, I'm, I'm, I'm trying to recollect the meetings but I'm sure he was expecting some form of feedback or review from those people that were on the actual distribution list, Mr Fisher, Mr Sierra. I remember having that conversation with him, Commissioner.

THE COMMISSIONER: Mr Smith, you were the person on the ground.
---Yes, and I actually with the documentation that went up said what I could do on the ground. Certainly not, you know, certainly wouldn't be chasing
10 SIG or, or, I wouldn't even know what I'd be specifically asking them for.

MR ENGLISH: Well, just have a look on that. See the - - -?---I'm not the manager, don't forget.

See the paragraph starting with "During"? "During the audit, a single staff member from SIG was identified as having worked 15 days without a full day's break. This has been brought to the attention of SIG and corrective action to the future has been taken."---Yes.

20 Now, as a manager who wanted to ensure that people working at the university did so in accordance with relevant laws and industrial requirements, did this not raise a serious concern for you?---I would have had conversations with Mr McCreadie around certainly the, that part of it, about the award, about the overtime, and about, well, certainly the, the 15 days.

You're saying you would have. Do you have any recollection of actually having a discussion with McCreadie about it?---I would have spoken, no, I, I would have talked to him because - - -

30 You said "I would have" again. Do you have any actual firm recollection?
---No, there, there would be, there would in my, I haven't seen my documentation yet. I put a report going back up the line. But it certainly would have adhered to what those bullet points were, but, yes. Certainly with Mr McCreadie, would have raised the issue there around the 15 days, would have talked to him about (not transcribable)

Why didn't you just say show me these rosters. I want to see them?---Show me what rosters?

40 Show me the rosters that show that this person's worked 15 days. I want to see them. I want to get to the bottom of this. Why didn't you do that?---I don't know at the time, not sure.

MR COLEMAN: Commissioner, I hesitate to rise, but I see the time. The issue that we're dealing with that you're aware of with respect to documents. There's a matter I need to bring to Counsel Assisting's attention with respect to this line of cross-examination.

THE COMMISSIONER: Sure. Sure.

MR ENGLISH: That might be a convenient time, then, Commissioner.

THE COMMISSIONER: Yes, we'll adjourn until 2 o'clock.

LUNCHEON ADJOURNMENT

[1.04pm]