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INDEPENDENT COMMISSION AGAINST CORRUPTION

STEPHEN RUSHTON SC
COMMISSIONER

PUBLIC HEARING

OPERATION GERDA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 21 FEBRUARY, 2019

AT 9.30AM

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MR LARKIN: Commissioner.

THE COMMISSIONER: Yes.

MR LARKIN: My name is Larkin.

THE COMMISSIONER: Yes, Mr Larkin.

10 MR LARKIN: I'm instructed by Janine Smith of Carrol & O'Dea. Might I
have your leave to appear for Mr Greg Robinson, who is the director of
Campus Infrastructure Services at the university?

THE COMMISSIONER: Yes, Mr Larkin, that is granted.

MR LARKIN: Thank you.

MR ENGLISH: We can continue with Mr Smith's evidence,
Commissioner.

20 THE COMMISSIONER: Come forward, Mr Smith. I'll have the oath
administered again, Mr Smith.

THE COMMISSIONER: Yes, Mr English.

MR ENGLISH: Mr Smith, did you speak with anyone overnight in relation to the evidence you gave yesterday?---Overnight?

Yes.---I gave the laptop to the officers, that was it.

10

Well, the question did you speak to anyone about the evidence you gave yesterday?---Not that I recall, not specific evidence. My wife came up and knew I was here, that was it.

Did you discuss your evidence with her?---Not, not, not specific evidence.

And when you say - - -

20

THE COMMISSIONER: What did you discuss?---The fact that I was here. She knows I'm, I'm here.

Yes.---She was there when the laptop was taken. I said, "The laptop has been, has been summonsed."

MR ENGLISH: Did she ask why that was?---No.

She obviously knew you were coming here prior to your attendance yesterday. Correct?---Yes, I, yes, she, she knows I'm here for a few days.

30

So did you discuss with your wife any of the areas in which questions were asked of you yesterday?---No, not that I recall any questions, no.

Okay. Did you discuss with your wife that you were asked questions about the pinball machine?---About the pinball machine?

Yes.---Not that I recall.

Well, what does, "Not that I recall" mean?

40

THE COMMISSIONER: It's only a matter of hours ago, sir. Did you or did you not discuss the evidence you gave concerning the pinball machine? ---I don't recall discussing the pinball machine. She knew I was here, I was summonsed.

MR ENGLISH: I would have thought, Mr Smith, if you didn't discuss the pinball machine with your wife the answer would have been an immediate no. That took you a few seconds to say you can't recall. Did you tell your wife that the Commissioner mentioned that she could potentially be a

witness before this Commission?---I can't recall saying she, she might be a witness.

Well, what did you – it seems like there may have been some discussion between you and your wife in relation to your evidence yesterday and specifically in relation to the pinball machine, Spidey. Did you or did you not discuss those matters with her?---It was a pretty exhausting day, I don't really recall. When I got home, I was pretty exhausted. I don't really remember what I discussed.

10

You've been pretty certain in your evidence about things that you've recalled over the last two or three years yesterday, and you're telling the Commissioner now that due to mental exhaustion yesterday you're unable to recall your discussions with your wife?---I was pretty exhausted.

THE COMMISSIONER: No, is that what, is that your position?---I'm just trying to recall, Commissioner. I'm just trying to recall, but I just can't recollect the specific conversation at this stage.

20

MR ENGLISH: Do you recall yesterday in your evidence you said that, in relation to questions I was asking you about reviewing the site time sheets, you said, "I would, I was in the control room maybe once, twice a day. I would look at people signing in. I would have a look at the sheet." Do you recall that?---Yes.

I want to show you some of the site time sheets. If we can start with Exhibit 39, page 24. This is a site time sheet for Tuesday the 23rd of August, 2016. Do you see the name Eslam Ali?---Yes.

30

See how it appears to have been white-outed?---Appears to be.

And you see how the name seems identical to the signatures?---Oh, okay, all right. They're similar, yeah.

Did you ever see white-out used on site time sheets?---No.

No?---Didn't see white-out, no.

Never?---Never saw white-out.

40

We've got the hard copies right here and your evidence is you've never seen white-out used on a site time sheet is that right?---I've never seen white-out on a time sheet used, no. Not when I've gone to check in the control room.

We might come back to that. Can we go to page 21, please. 24/08/2016, see the name Mina Azer, there's no signature, sign-in or sign-out, do you see that?---No signature. Yes.

Did you observe things like this from time to time, where signatures were missing from site time sheets?---Yes.

What did you do in those circumstances?---Well, whoever the team leader was or if it was Emir or Daryl who was on, I'd ask them, it would appear at that stage, obviously human error to fix a, a sign-off or a sign-on on the time sheet.

10 Why would it appear as a human error?---It's a human error. It's a time sheet, sometimes people rush in or rush out and they forgot to sign in or sign out. That was - - -

So your assumption was it was a human error?---Yes.

And you'd raise it with Daryl?---Well, whosever in the time, whosever in the control room. If the team leader was in there at that time, it would be them, if it wouldn't be, it'd be a person in the control room. I would make sure - - -

20 And did you ask them to rectify it?---Well, they couldn't rectify it but find out what's, what the issue was and rectify it, yes.

Well, just so you understand, these are copies of site time sheets that were found in hard copy form and the hard copies are back here, either in Mr Balicevac's drawer, some of them, or on the shelf I think behind where Mr McCreadie and others sat.---Yes.

30 And the evidence is, I think from Mr McCreadie, that those hard copies are the versions that were scanned and sent to SNP. Understand?---Right.

THE COMMISSIONER: You said a moment ago that you didn't observe white-out being used on these time sheets. Had you seen white-out used fairly regularly on these time sheets, would you have concluded that what was happening may have been something more than human error?---If there was a regular use of white-out and I did see it, I, I certainly would have perhaps, you know, asked a few more questions, but I didn't see, I can't remember seeing white-out on, on, on the sheets, and depending what time of the day, I mightn't have checked until 9 o'clock or 10 o'clock or first thing. You're not always rushing in to check the time sheets at a particular
40 time. I would have a look through the day but I don't remember seeing blocks of white-out on names.

No, no. I know that's your evidence, but had you, would it have suggested to you, for example, that some of these guards might be ghosting?---I, I didn't even know that term, Commissioner, until after the, the warrant to be honest with you, the ghosting term, but if there was regular white-out, I probably would have asked some questions.

Why?---Well, you'd be asking why they were whiting-out. You know, they were a messy time sheet as it was, you can see, they're a very messy time sheet but I can't recall a lot of use of, of white-out at all.

MR ENGLISH: Perhaps we can refresh your memory on some of the white-outing practices. Page 23, please. You see where the cursor is, it appears that white-out's been used to remove a name, you see that?

10 THE COMMISSIONER: I take it, Mr English, that where you're putting this to the witness, the original will show that it has been whited-out?

MR ENGLISH: Well, the originals are right here and we might actually do that later today but it will need to be collected.

THE COMMISSIONER: That's okay, yes.

MR ENGLISH: So you see, it appears that white-out's been used there
20 beneath Amyna Huda's name?---Yes. There was, yes, been something there.

And look at the Fisher Library, the two entries, do you see a similarity in the signatures there for two people?---There could be a similarity there.

So if you saw that, would that have raised concerns with you that perhaps it wasn't a human error?---Well, I wouldn't have been - - -

30 Can I finish the question. That perhaps it wasn't human error, some of the issues that appears to arise in these time sheets?---Knowing what we know now, yes, but looking at it at the time, you wouldn't be examining, like, a specimen, the specimen signature.

40 Well, I'm not asking you for an expert handwriting opinion. I'm asking you as a police officer with 26 years' experience and a licensed security consultant, if you saw page 23 and the signatures for Ikhlass Nor Eldin and Sam Elsom at the time looking fairly identical, would that have raised concerns in your mind as to the legitimacy of those entries?---I mean they look like, they look like signatures, you're, you're having a cursory look down through the actual document, which is an SNP document, and you're, you're not forensically examining the document for a, a scratch, a signature.

So yes, no or I don't know? Would that have raised a concern?---Well, it, it pay have but I - - -

Fisher Library services, ad hoc or contract?---Both.

THE COMMISSIONER: When you reviewed the time sheets, what were you looking for?---It was mainly just a, a look, probably down through the,

the actual names, Commissioner, just to see that we've got people in, in positions, people have signed on, people are here.

MR ENGLISH: Just bear in mind that Ikhlass Nor Eldin signature, can you. That sort of squiggle that looks like an S, do you see that?---Yes, yes.

Page 14, please. See Ikhlass Nor Eldin, now seems like a different signature?---Yeah.

10 Have a look at Bernadette.---Bernadette, yeah.

The signatures are different. One's a name and one's a signature for sign-in and sign-off. See that?---Yeah, I, well, I can see it, but as I said, you're not examining it sort of forensically when you're looking at the document.

I know, but I'm asking you as a layperson, I'm not asking you as an expert. They're pretty obvious observations I'd suggest to you that anyone could have made if they look at these time sheets. Correct?---No, I don't think they would be.

20

You don't agree. Well, you've looked at them once or twice a day on your evidence and you're a police officer with 26 years' experience.---But you're not forensically looking at a signature, you're looking at people who are here, you're looking at the names that are filled in, you're asking the team leader have you got the full team for the day, getting told you have, everybody's shown up and there, there are names down the block.

Page 11, please. The first three names, Malenka, Mostafa and Anthony. See the handwriting seems similar?---Oh, not necessarily to me but - - -

30

Okay. Look at the signatures, do you say there's any similarity between those signatures?---Possibly.

What about in the comments? Do you see that potentially white-out's been used?---Yes.

40

If you had have seen this at the time would it have raised any concerns in your mind?---Again probably not the signature blocks. I mean, again, if you forensically examine that, but if there was, if there was, I mean, yeah, I could, even the day, look how messy even the day is up there, you can't even tell what day that is, but it's, it appears to be a weekend day.

So here I'd suggest to you there's similarity in handwriting, similarity in signature and Liquid Paper used. Do you agree?---Yes, but - - -

And, just and, this is for additional services which is ad hoc. Correct? ---Ad hoc?

Yes.---Yes.

So you'd already raised the potential for fraud in that area.---Ad hoc?

Yes.---Yes.

You're clearly on notice that this could be fraudulent, I suggest to you, if you saw it.---Oh, it's a time sheet and it is a Saturday so I wouldn't have seen it.

10

THE COMMISSIONER: Until the following Monday, I take it.---No, they would have been already sent, Commissioner, all filed and sent or sent before you see the, the actual Monday morning. Monday mornings are pretty hectic, you've got a synopsis to deliver, to - - -

You had no interest in what had occurred over the weekend?---No. Well, I would have been actually on the phone probably a fair bit of the weekend, but there's a synopsis also on my desk of all the weekend details and incidents, that's what I'm reading through, so - - -

20

Thank you.---Thank you.

MR ENGLISH: Exhibit 41, please, page 27. You see the names Bishoy Girgis and Yahya Alabdulla?---Yes.

No signatures for either?---Yes.

And Liquid Paper used for at least Bishoy?---Yes.

30 And it's ad hoc services?---(No Audible Reply)

Ad hoc services?---Yeah, yes.

And it's a Monday when you're at work.---Well, that would be Monday evening and again that would be gone by the next morning.

Well, the first shift is at 6.00.---Yes.

40 So you're saying because Bishoy is starting at 5 o'clock in the afternoon you wouldn't have seen this?---I would have been gone.

Page 20, please. Lincoln Nock, no signature, started at 8 o'clock.---Lincoln Nock, Lincoln Nock.

See that?---Yes.

Oliveria Bejatovic started at 5.00 in the morning, no signature, no licence number. See that?---Yes.

And then Atif Ali, you barely can't read anything, it looks like it's all been whited out. Do you see that?---Yes.

What's CET?---Centre for English Teaching.

Okay.---I don't know (not transcribable) it's a small shift.

10 Page 16, please. Thursday, 27 October. See any similarity between the signatures of Gabrieli, Matthew and Sami?---Possibly, yes.

Right. And they started at 0500. See that?---What was that for? SCA (not transcribable) Yep.

So ad hoc services on a Thursday. Yes?---Yes.

Okay. And then Yahya Alabdulla, no signature?---Yahya Alabdulla, yep.

20 And Atif Ali, no sign-off signature.---Yes.

THE COMMISSIONER: There's some missing licence numbers too.

MR ENGLISH: There are missing licence numbers, that's right. Thank you, Commissioner. What would you do if you saw missing licence numbers in a time sheet, if anything?---Well, they'd be asked to be chased up as well. The licence number's not there so it needs to be put in.

30 Are you aware whether or not it's a legal requirement to include approved information in a sign-on register?---Legal information?

Well, you're familiar with the Security Industry Act or regulation?---Some.

Are you aware that it's a requirement that a register such as this be filled in accurately and completely?---I'm not 100 per cent of the, of specific legislation, but regardless, it should be, should have been filled in correctly.

Okay. Page 13, please. Power shutdown on Friday, 28 October, 2016. No signatures for Oliveria Bejatovic. Do you see that?---Yes.

40 Same with Yahya Alabdulla.---Yes.

Same with Gabrieli?---(No Audible Reply)

See that?---Yes.

And these names are repeating, aren't they. Do you notice a similarity between Yahya, I've asked you some questions about that, Oliveria,

Gabrieli, it's the same names, isn't it---On some occasions, and again I wouldn't have seen the top 15 there, it's 4 o'clock I would have been gone.

Is your evidence still that the only way within your role and capacities that you could have detected a fraud at Sydney University was if a further, or further university team leaders were employed?---It certainly would have been one way.

10 And do you agree that if you paid sufficient attention to these time sheets the fraud was staring you in the face?---No.

Page 6, please. No licence numbers for the Fisher Library extension on Saturday, 29 October, 2016.---Yes.

Liquid Paper used in relation to one of the entries which seems to have been crossed out. Do you see that?---Yes. Again I just raise it's a Saturday, I'm not there. These are SNP documents which should be managed and completed (not transcribable) completed by them.

20 You've got a responsibility for giving direction to these specific team leaders under point 1 of your responsibilities, and to ensure that there's ethical behaviour by them. That was your job, right?---Part of my job.

Page 2. Ali Syed, Liquid Paper used. See that?---Yes.

Jawad Al Momani, no signatures, again it's on a Sunday?---Yes.

30 Exhibit 43, page 20, please. Monday, 11 December, 2017. Fisher Library extension. No licence numbers for five entries. Do you see that?---Sorry, Fisher Library extension.

See that?---Yes.

Who's LM, do you have any idea who LM might be?---No.

It's not even a person's name, you agree?---They shouldn't be signing in with LM.

40 THE COMMISSIONER: No licence number either.---No licence numbers but again, Commissioner, they're 5 o'clock, midnight, midnight, 10 o'clock, 5 o'clock.

MR ENGLISH: The evidence is these documents are kept on a shelf, I think behind your desk.---Incorrect.

Incorrect?---Incorrect.

Where do you say they were kept?---They were behind Mr McCreadie's desk.

Oh, sorry. I thought you guys sat on the row and that was close to you?
---That row is probably the end of the wall there.

So in the same room that you sit?---Open office. They're not my, they're not, not, not university documents.

10 They weren't locked away?---They're SNP documents. There's no provision even here for a signature for the university personnel to be checking these documents or authenticating the documents.

Sir, by this stage, you'd received a KPMG report that you'd read, right? Yes?---Yes.

That you'd forwarded on to SNP, correct?---Yes.

20 And that warned you about potential irregularities in these rosters, correct?
---In, well, I can't exactly remember the specific reference to that because it
- - -

MR COLEMAN: Sorry, can I rise. I don't think that accurately reflects the content of the report.

MR ENGLISH: I'm happy to stand corrected. I don't want to go back to it but we will in due course but do you agree you were on notice about concerns that KPMG had in relation to practices that may exist to circumvent payment of overtime allowances to SNP staff, resulting in non-compliance to the EBA, do you remember that?---Yeah, yes.

30 That was the first observation and that in the summary of observations, KPMG said that, "To accomplish the principal objective of working with a service provider that is compliant to legislation and policies in addition to good service quality, it is fundamental that the University of Sydney has robust processes in place with governance over the contractor operations and that these controls are built in as part of the tendering and contractual requirements. Additionally, the contractors should be able to clearly demonstrate the effectiveness of the controls they have implemented to meet
40 any contractual and regulatory requirements." You remember that?---It's a lot to specifically remember but yes, I'm hearing you.

Well, that was KPMG saying that the university had to have in place, robust processes - - -?---And the contractor.

- - - for governance over the contractor, right?---And the contractor you said.

THE COMMISSIONER: Where does it say that? Where does it say and the contractor?

MR ENGLISH: Perhaps if Exhibit 71, page 201 can be brought on the screen. This is a summary of observations I just read to you, Mr Smith. You recall the Commissioner asked you about it yesterday. This is the report that you read. Do you see it talks about robust process, the University of Sydney – I withdraw that. “It’s fundamental that the University of Sydney has robust processes in place with governance” - - -?
10 ---Sorry, sorry, can someone put the highlighter there, please. I just, so I can, sorry. Thank you.

Summary of observations.---Okay, yes.

So, “It is fundamental that the University of Sydney has robust processes in place with governance over the contractor operations and that these controls are built in as part of the tendering and contractual requirements.”
---“Additionally, the contractors should be able to clearly demonstrate the effectiveness of the controls they have also implemented.”
20

Yes, to you as the client.

THE COMMISSIONER: To you. What controls did they have?---They had a manager, they had a 2IC and they had five team leaders.

MR ENGLISH: Well that’s not a control, that’s a team.---They had specific, they have SOPs they should be filling and filing and completing.

That’s a complete misrepresentation of what this report was warning the university about, do you agree?---Well, no. There are a number of different, there are a number of different observations there so it’s just, it’s not all of them.
30

If we can go to page 203, please. This is, you recall, part of the observations that you cut and paste out of this document and sent to SNP with your email and according to Mr McCreddie, I think, sat down and helped him create notes in response to these issues. The second paragraph, “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 allowances to security guards, right?---Yeah.
40

Do you see that?---Yes.

So that’s what KPMG did. You said yesterday, you had a concern as a manager to ensure that people were being employed on lawful terms, correct?---Yes.

You've got these time sheets that you say you checked once or twice daily, yes?---It was more like once.

Well, your evidence was once or twice. You might be trying to shy away from that now but it was once or twice when I read it to you earlier today and you agreed, yes?---It was probably more like once.

10 THE COMMISSIONER: Well, what is it? Once, twice?---Well, Commissioner, you go in there, there are different people signing on at different times.

Was it once or twice?---Well, some days it might have been twice you go in there at 6.00 or you've gone in there at 8.00 or you've gone in there at 8.00 or you've gone in there at 10.00 and people are coming on, you'll see them sign-on, you're standing over the time sheet, I'll have a glance at it or whenever you had the opportunity through the day.

20 MR ENGLISH: Well, if we can go back, please, to Exhibit 43, page 20. By this stage you were on notice of KPMG's concerns and is your evidence that you wouldn't have seen the entries under Fisher Library extension because they started from 1700 and you'd left by then?---That's correct.

Wouldn't this time sheet still be there in the morning, that you could have seen it over in to the next day when you arrived at work?---The process is they were faxed, I think they were faxed pretty early. I would only be seeing the, the sheet that was on for the day. That's the current one I was looking for.

30 Have a look at LM. LM purports to sign-out at 8 o'clock. What time did you get to work every morning?---I was usually there by 6.30 but I'd have synopsis duties on my desk, I don't go in to the control room first, first thing.

Well, that would suggest the time sheet was there when you were at work, still in this form in the control room, would you agree?---Yes but I may not have seen it until 9.00 or 10.00 or 11.00.

40 THE COMMISSIONER: What difference would that make?---Well, it would have gone by then, Commissioner. It would have been faxed. A fresh, a fresh day, it would have been over, overleaf or there for them to sign-on, not this one.

MR ENGLISH: So just noting those names, Bernadette, LM, Sibel and Affan. If we can go to page 17, please. This time we've got an L. Markoski, same initials as LM and there's a different signature there, do you see that, to the LM we saw on Monday?---Well, I wouldn't be making a correlation between the two but there's a signature there.

Well, there's no signature Bernadette, Sibel or Ahmed Saleh. See that?
---Yeah. Sibel, yes.

THE COMMISSIONER: And one licence number.

MR ENGLISH: And one licence number, thank you, Commissioner. Now, if we go to Wednesday, please, page 15. Same names, Bernadette, Sibel, L. Markoski, Ahmed Saleh and Affan Javaid. No signatures except for Affan Javaid and only L. Markoski's licence number.---Yes.

10

And Fisher Library extension's ad hoc?---Fisher Library extensions is ad hoc.

Yes. Potential for fraud in that area?---Possible.

Fraud is evident on these pages I've just taken you to, would you agree?
---Well, I, I'm not to draw a correlation but there are gaps in filling in that sheet.

20 Page 12.

THE COMMISSIONER: Well just a moment, just go back to that again. With Bernadette, Sibel and Ahmed. There's not enough information there to know one way or the other whether they were on-site, is there? They haven't signed in. They haven't signed out. There's no licence number. You wouldn't know one way or the other whether they were there from that record, would you?---There's no signature, no. No. The sign-in/sign-out, licence numbers aren't there. It's possible.

30 We just don't know from that record whether they're there or not.---No.

MR ENGLISH: I think you said earlier in your evidence that you spent some time with Mr McCreadie going over invoices.---Every month.

Every month. And were they draft invoices or final invoices you'd go over?---So we'd talk about the contract as a final invoice. That would have a cheque. The ad hoc would come as, not a draft but it would come in, in first form, and that would be thoroughly examined and there's always mistakes in the ad hoc. That's got, that's had the most concentration of the examination by myself and Mr McCreadie and both together.

40

Well, it's a draft. It's not the final invoice, correct?---It's sent as a final invoice. We find errors, it gets sent back probably two or three times.

All right. And did you ever ask following that reconciliation to see any time sheets?---No.

Why not?---Because they're not, they're not names on those invoices. They're positions. They're position and, and an hour. There's no names on those ad hoc invoices.

Well, you've just seen a lack of information in relation to Fisher Library extension from Monday to Wednesday of this week.---I've seen it here. I did not necessarily would have seen it there.

10 Well, so you say it's not about names, but if you had any concerns that people weren't turning up for the Fisher Library extension, you would have asked to see the sheets, would you not?---I didn't have any concerns that they weren't turning up.

Well, complaints started coming that people either were falling asleep on a desk at Fisher Library, do you recall that?---Yeah, I think there would have been one, one or so complaint.

Were there ever complaints that there weren't enough guards there?
---Enough guards?

20

Yes, so there weren't the full complement of guards on doing the Fisher Library extension.---I think on one occasion there, there was and I'm not sure the, whether they just weren't where they were supposed to be or they weren't there, so I would have to (not transcribable) refresh my mind, memory on the (not transcribable)

And those complaints never triggered an examination by you of the time sheets?---It depends what they were. I just can't remember what the actual complaints were, and there weren't a lot.

30

Page 12, please. Fisher Library extension. No details in terms of licence number or signatures for Bernadette, Sibel and Affan Javaid. Do you see that?---Yes.

Friday, page 9, please. Fisher Library extension. No signatures for Bernadette, Sibel, this time Magdy Aly, or licence numbers. Do you see?
---Yes.

40 So do you agree if you saw the time sheets for this week you would have had a serious concern as to whether or not the services requested by the university in relation to the Fisher Library extension had been completed for that week?---Not sure if I would have drawn that straight conclusion, but there were errors there and that would have been the first question, but there are errors.

And do you see also for Magdy Aly on page 9 there appears to be white-out?---Oh, yeah.

Ben Pfitzner, do you know who that was?---He was, he was a team leader for a period of time.

And he grew up in the Riverina of New South Wales?---Yes.

You grew up in the Riverina?---No.

You didn't share a connection that way?---No.

10 All right. Well, you remember who he is.---Yes.

Do you remember at around what time he left working at the campus?---Oh, no. People, people kind of, people come and go and all the guards come and go and I don't remember when he left.

If we can go to page 4, please. See the name, it's team leader night shift, see Ben Pfitzner, no signature?---Yes.

20 Do you recall seeing his name in time sheets from 2017 onwards?---Not specifically but I can see it's written there.

You recall at some stage he left the university, though, is that right?---I mean, they go, they come back. They go on leave, they come back. If he went, I just can't remember when he went.

Page 5, please. Saturday, Fisher Library extension. No licence numbers provided. See that?---Yes.

30 And signatures missing for Bernadette, Ahmad Amiri, Ahmed Salah and Jawad. See that?---Yes. Saturday.

Page 2, please. Fisher Library extension. No licence numbers for eight guards on this occasion on the Sunday. See that?---Yes.

An attempt at a signature for Oliveria Bejatovic to sign in.---Yes.

And really only signatures provided for Affan Javaid and Malenka. You agree?---Yes. It's a Sunday.

40 Exhibit 45, please. Page 19. Licence number information missing for the night shift and traffic officers, save for Parwiz Sharifee.---Yes.

No signatures for Mohamad Yassin and Mostafa Gofar.---Yes.

And they had to perform the bus runs. If we go over the page, again Affan Javaid hasn't signed in on Monday for the Fisher Library extension and there's no licence number. See that?---Javaid, yes.

For either Louise, sorry, for I think it's Louie Markoski, Bernadette and Affan. No licence number.---Yes.

Licence numbers missing for campus lock-up services. See that?---Yes.

What about the signature Adam for Adam Bokour. Do you see a similarity between the first name and the signatures?---Yes.

10 Now page 13, please. Control room operator Zain Ul Abidin hasn't signed in or provided a security licence number.---Zain, yes.

That's for a day shift. Day shift?---Yes, yes.

And the night shift there's licence numbers and signatures missing for Gol Mohammed Amiri and Eslam Eid.---Yes.

20 The bus run, Mohammed Yassin hasn't provided a licence number or signed in or out. Yes?---Yes, I'm just trying to read what that is. Oh, okay, it's an extension.

And then if we go to page 9, Mohammed, I think it's Kasheej, hasn't provided a licence number or a sign-in or sign-out.---Yes.

Friday, starting at 5.00am.---Yes.

Same with Rob Basselly, no licence number, no sign-in, no sign-out. See that?---Yeah.

30 Additional services, George Boutros, no licence number, no sign-in, sign-out. See that?---Additional services, yes.

Same for Atif Ali. Do you see that?---Yes.

And Saturday I appreciate you're not here, but page 2, Fisher Library extension ad hoc.---Yes.

Five people that haven't signed in or signed out.---Yes.

40 And no licence numbers.---Yes.

What do you say to the proposition that if you were acting competently you would have detected the fraud that was going on just from an examination of those time sheets?---No.

Okay.

THE COMMISSIONER: Mr Smith can I just ask you a general question.
---Commissioner.

In deciding the number of guards required at particular places within the university and what duties they would need to perform there, were risk assessments carried out by the university?---Specific, some may have been by the risk coordinator, Mr Ledford, it just depends what the positions were, Commissioner. Most of it would have been in consultation with the client. So if you took the library for example, the library would stipulate some SOPs and how many guards they would want to manage the size of the site after hours.

10

But how would they have reached that conclusion?---Oh, there would have been some discussion obviously with, with ourselves, otherwise there may have been a risk assessment on a particular job that would determine the numbers, or it would have been, in terms of the open and close, it was in conjunction with Mr, can't think of his name, Joe (not transcribable) I think he was, who was a high-level manager in Campus Assist who managed all the staff that did that, and he walked around with, with Daryl and they wrote down doors, timings et cetera, and wrote, wrote a schedule of how many guards it would take, because I know they did it with at least half the personnel he had. So it does vary, Commissioner.

20

Right. Thank you.

MR ENGLISH: If we can please go to Exhibit 37, page 1, a copy of the external interests policy 2010. It says it was last amended in 1 June, 2017, but notes administrative amendments only. Do you see that?---Yes.

Is this a document you're familiar with?---I would have, I would have read it at some stage, when I joined or - - -

30

Point 3 says it's binding.---Point 3, binding, yes.

It binds the university staff and affiliates.---Yes.

So that includes, does it not, you?---When I was a staff member, yes, certainly would, yes.

Those who worked underneath you at the university?---Staff you mean?

40

Staff, university staff.---Yes.

And would you – oh, no, I withdraw that. Page 3, please. Point 8 talks about the conflict of interest rule.---Yes.

Sub 3, "Conflict of interest rule applies to potential or perceived conflicts of interest where there is a real or substantial possibility of the potential or perceived conflict of interest arising."---Yeah.

“And the external person or financial interest in question is material.” Do you see that?---Yes.

“An interest will only be material if it is real and substantial, not theoretical, remote, contingent or otherwise insubstantial, and has, or appears to have the capacity to influence the conduct of a particular individual.”---Yes.

10 “A material interest will arise in,” – over the page, sorry. “A material interest will arise in circumstances in which detriment or benefit accrues to a staff member or affiliate.” NRL tickets are a benefit that accrues to staff member if they’re given by SNP. Do you agree?---Yes.

It goes on at 9 to talk about a conflicts register, an annual declaration at 10 that needs to be filled out, and at 11 an ad hoc declaration of external interests to the university.---Ad, ad hoc?

20 See that, point 1, “Staff members and affiliates who acquire or become aware of an external interest at a time after their most recent annual declaration and before the next annual declaration is due must provide a further ad hoc declaration of that interest as soon as possible after becoming aware of it.” See that?---Yes.

2. “The ad hoc declaration must be made in writing to the relevant executive supervisor.”---Yes.

So in respect of Ms McGarry – when you were filling in for Morgan Andrews, in respect of Ms McGarry, Mr Bowman and Duane Ledford, you were the relevant executive supervisor?---I was relieving, yes.

30 And it goes on to say over to page 13 how conflicts can be evaluated and how they can be managed at 14. And then over the page at 16, what a failure to declare means. So, “It can constitute misconduct and result in disciplinary action being taken by the university.”---Yes.

And, “It can also be regarded as corrupt conduct under the ICAC Act 1988.” Do you see that?---Yes.

40 Do you agree with the proposition that if you’re not enforcing this external interests policy as the relevant supervisor of Mr Ledford, Ms McGarry and Mr Bowman in relation to the NRL tickets, do you accept that it leads to a complete breakdown of the effectiveness of the policy?---By the book it probably does. It was a - - -

You’re sort of shrugging, you’re agreeing I think?---Yeah, no, I said by the book it, it should have been declared.

Well, what’s the alternative, to not do it by the book and ignore the policy?

I mean you can't really qualify the answer to the question I just gave, can you, in that way?---(No Audible Reply)

You understand the policy binds the university staff and affiliates?
---Yes, yes.

So it binded you in that role as the executive supervisor of those people, right?---Yes.

10 And you failed to adhere to it.---Yes.

Now, you were a member of the Tender Evaluation Committee in respect of the contract for security services that was ultimately signed between SNP and the university in around December 2015.---Yes, yes.

Now, if Exhibit 70, page 168 can be brought on the screen, please. This is the tender evaluation plan - - -?---Right.

20 - - - in respect of the security services provision. Do you see that? That's the project name?---Yes.

And the procurement services contact was Mr Vitanage. See that?---Yes.

This was the tender evaluation plan for the purposes of the tender that led to the contract between SNP and the university.---Okay.

Do you agree?---Well, I - - -

30 You were on the committee.---Yeah, it's four years ago. I haven't seen, I - - -

1 December, 2014. You see that? That's the date.---Yeah.

Page 174, please. Committee members. Steve Sullivan, Bob Deakins, Mark Moeller, Srinath Vitanage.---Yes.

Yourself and Dave Owens.---Yes.

40 Who's Dave Owens?---He has a consultant business, Risk-e Business.

And ex-police officer?---Yes.

You knew him at your time in the force?---No.

How did you first meet him?---Well, when you say met, I would have met him once in 26 years in the police. I never worked with him. I didn't really know him. Know of him but I didn't know him.

So were you the one who was responsible for having him made a committee member for the purposes of this tender evaluation?---My recollection is it was Mr Sullivan, from memory.

Is Mr Sullivan an ex-police officer?---Yes. Never knew him either.

Do you know where he was attached?---No, I never knew him when he was in the police.

10 Page 179, please. See Assessment, 13.4?---Yes.

“Tenders will be subjectively assessed by the Tender Evaluation Committee against each evaluation criteria and using the evaluation methodology spreadsheet. Each Tender Evaluation Committee member will independently record his or her scores for each of the responses in the document. Any comments and issues will be recorded here. Do you see that?”---Yes.

20 That’s saying that you independently record your scores for each of the responses.---Yes.

You understood that that meant that you weren’t meant to speak with any of the committee members in relation to the scores for the individual responses, correct?---Yes.

Now, you can see on page 198 that there’s a series of approvals. Yours is noted as an email approval. Do you see that?---Okay, yes.

30 And, for example, if we go to page 202, Mr Owens says in response to Zoe Davis, she was someone that worked on this tender, was she, Ms Davis?
---Just trying to place her, but she, I think she was the procurement, one of, one of the two procurement ladies.

So the answer is yes?---I’m convincing myself that I, she’s the person, but, yeah, Zoe, she would be procurement.

40 So Mr Owens says, “Happy for this email to be used as confirmation of electronic sign-off on both the TEP (tender evaluation process) and methodology spreadsheet.” Do you see that?---Yes.

So that’s Mr Owens. And then you at page 206 you say, “Fine, Dennis Smith.” Do you see that?---Yes. Yes.

Subject “TEP”. And then if we just go back to 198, it’s recorded that you’ve provided an approval as a Tender Evaluation Committee.---Yes.

So by doing that you’re agreeing to the terms of the tender evaluation plan, correct?---Yes.

Can you go to page 241, please. If we go to the bottom of the page, see Mr Owens writes to you on 8 December, 2014, saying, "Hello, mate. This may assist to see that we are going along the same lines or if there is a need for an adjustment."---Yes.

And then over the page, "Let me know." You see that?---Yes. Yes.

10 And if we go to page 243 and see what the attachment is. That's the spreadsheet by which Mr Owens is evaluating the different tenders against the criteria and the tender evaluation plan, correct?---I'm just trying to have a look. I haven't seen it for five years, four years. Okay, so, yeah, it would look like an evaluation document.

You prepared a similar document to this yourself in your role as a committee member, correct?---I would have, yes.

20 So if we just look at this, you can see he's identified some matters in red. ---Yes.

And that's about subcontracting,---Yes.

And where a tenderer didn't have a subcontractor, that's what's in red, and Mr Owens has told you that he's rated that as an 8, at least in this draft version. You see?---Oh, yes.

30 I'll just go back to the email on the prior page. One more page, please. So you say, "Maybe some little high." So are you referring to the weightings that I've just drawn your attention to? That is, the weightings for the tenderers that didn't have a subcontractor who are highlighted in red.---I could not definitively say. I couldn't, I couldn't say just looking at that, what, what I'm saying there.

Well, then Dave Owens says, "Try these one. I had another look and valued down."---But there's no suggestion they're just the red ones, is it? But is that just - - -

40 Well, so we'll just go back to 243. So you can see there's ADT that's got a red marking. There's Complete Linemarking Services.---Yes.

There's ECS.---Yes.

There's Group 4.---Oh, I can, I certainly see the red, I was just wondering is that, is that suggesting - - -

And there's Knightguard.--- - - - they're the ones that we're talking, is it?

Well, what we're going to do now is go to Mr Owens's final version, which is in Exhibit 70, page 65. This is a bit hard to read. There's an Excel version. I'm wondering if we – I can show you this one. It's been scanned. It's difficult to read. I don't know if we can improve that. Otherwise I can bring the original Excel up. You see there's ADT, he's changed it to black. Do you see that?---Yes.

And he's dropped it down to six. Can you read that?---Yes. Oh, well, oh, yes, I can see it.

10

And if we just go to the left, you can see this is Dave Owens in the top left-hand corner.---Yes.

And so all those ones that were, all those ones that were red have now been changed to black and the rating's dropped from eight to six.---Right.

And if we go down to SNP, there it is there. So it's at seven.---Ah hmm.

And I'll read, it says, I think it says, "New relationship with reputable companies for contract. Telstra re new alarm monitoring." All right? So - - -?---Yes.

20

Just go back to page 241. Do you agree that what you said in the middle email, "Maybe some little high," you're referring to the subcontractor scores?---Look, I just, I can't say.

You're saying you don't have a recollection?---Well, just looking at that, I'm not sure what, just because they're in red and they've been marked down, if that's what I was talking about, I just don't know.

30

Will you accept that Mr Owens says to you, "I had another look and valued them down." You see that?---Yeah.

And his initial email to you was because he wanted to see that you and he were going in the same line or if there was a need for an adjustment. I don't have a number, I wonder if we can bring Mr Smith's final version, in fairness, on the screen, which would be around page 65 but it might not quite be there. We might have to come back to this one – oh, no. It does say at the top. Here's your one. Can you see it's got Dennis Smith written in the top?---Yes.

40

And here ADT Security, it's hard to read.---That's okay, I'm fine.

It says, is it, "Six, no subcontractors"?---Six, yeah.

See, you've given everyone a – the next one is I think, it's so hard to read, but it seems to be six for everywhere you've indicated no subcontractors. ---A score of six, is it, yes.

So it seems, in relation to that issue of arranging for subcontractors, you and Mr Owens have come together and decided that where tenderers didn't have a subcontractor, you'd both rate them as a six, do you agree?---No, that's not, not what my email says.

You don't agree?---That email doesn't say, it doesn't say rate them as a six.

10 Well, it said, if we can just go back to page 241 of Exhibit 70. It certainly seems that in the end you both went along the same lines in relation to the weighting for subcontractors, do you agree? That is, in circumstances where there was no subcontractor.---I seems they were similar in the end, yes.

And do you agree that - - -

THE COMMISSIONER: They were the same at the end, weren't they?

20 MR ENGLISH: They were, that's right. Six for everyone that had no subcontractor.

THE COMMISSIONER: Thank you.

MR ENGLISH: And you agree that by engaging in that activity with Mr Owens, you were breaching the clause of the tender evaluation plan that I took you to earlier, do you agree?---It would seem so.

30 Now if we can go to page 246, please. There's an email on 11 December, 2014, at the bottom of the page from you. It just says DS. Do you see right at the bottom, "DS"? It's hard to know what - - -?---Oh, okay. So Owens, to there's one from Owens and I've, or one lower, is there?

No, Owens responds, "I shall let you know how I go. I have to put today aside to finish it off," and the subject heading is, "Let me know if you're coming in. I be around this morning, finishing off spreadsheet." Do you see that?---Yes.

40 And then you respond, "Okay, I just want to get together before the hook-up on Tuesday." Right?---This is Owens, is it? Right, right, yes.

No, this is you to Owens. 11 December, at 6.53.---Yes.

And then he says to you, "How are you situated Friday morning? That way I will be through spread sheet and we can chat. I shall come to you at a time suitable." Do you see that?---Yes.

And then you say, "Okay. Chat later." See that?---Yes.

So you seem to be arranging a time to meet about the spreadsheet in advance of the hook-up on Tuesday.---Yes. I don't know exactly what it was about but it talks of a spreadsheet but I don't know exactly what the conversation was.

Well, if we go to page 157, you can see that here's the meeting minutes from the hook-up on Tuesday.---Yes.

So it was about the security services tender.---Okay, yep.

10

And you can see that both yourself and Mr Owens attended?---Yes.

So if we just go back to page 246, can you tell the Commissioner what was it that you met with Mr Owens about and chatted about in addition to that hook-up on, prior to that hook-up on Tuesday?---Appears to be some discussion on the spreadsheet but exactly what it was, Commissioner, I would not know exactly.

20

Well, ultimately a decision was made for SNP to be awarded the contract, correct?---Yes.

Now, is it the case a decision was made by the Tender Evaluation Committee that SNP scored the best rank, is that right?---I think there was never a criteria but I think overall it was ranked, ranked, ranked, ranked - - -

Overall, yes. And then it had to go up the chain for approval before the contract could be signed, is that right?---Yes. I guess, yes, it would have been higher delegation.

30

And there was some difficulty in getting that higher delegation sign-off, was there at some point?---I don't really remember but - - -

40

If we go to page 248, please, of Exhibit 70. So here, it's an email from Ms Davis to, it would see the Tender Evaluation Committee members, yourself, Mr Owens, Mr Deacon, Mr Vitanage and Mr Moeller and she says, "Could I get someone/all to do me a bit of a favour, please. As expected the Steering Committee did not let me have my way easily and after an hour and a half of explaining and re-explaining, I managed to get them to about 95 per cent across the line. However, I do need to further justify SNP's benefits and qualitative cover, so value of MSS and BRI, really focussing on justifying why their increased cost over MSS is not a consideration due to the qualitative and valuated benefits which make SNP a much smarter and preferable choice in guard services." Do you see that?---Yes.

And she says, "I'm going to basically have to add approximately an additional one page of detail to the recommendation section, taking out cash collection and line marking in order to compare the guard services and

electronic maintenance value of SNP versus MSS.” MSS is another tenderer?---Yes.

10 You’re nodding, yes. “Once demonstrating that SNP’s higher pricing guard services is a non-consideration due to X, Y and Z and because they also then bring back a 500k saving over the six years in elec maintenance, then I can subsequently recommend they should therefore be awarded cash collection and line marking do to the overall additional value in the consolidated contract. Yes, it would appear, we’re just skinning the cat differently but it has to be done. Therefore, could you guys please assist me a little by perhaps giving me a couple of bullet points in how SNP’s demonstrated their guard services are of a higher calibre/why we have scored them higher.” See that?---Yes.

You forward that to Dave at Risk-e Business, that’s Mr Owens.---Yes.

20 You say, “This make sense to you? Back on the payroll a bit.” What does that mean, “Back on the payroll a bit”?---I think that’s him, that he thought his, his consultancy bit was finished. So he’s back on the payroll, you know, he’s, he’s going to get paid, I think it’s about him, he’s got more work to send on the line. I think that’s what I’m talking about.

All right.---“Can you send her something please as well.” Yeah.

Now then if we go to page 250, see it’s an email chain - - -

THE COMMISSIONER: I’ll stop you there. Why did you want him to send something to her?

30 MR ENGLISH: If we go back one.

THE WITNESS: So the distribution list, did it go – it’s to everyone there, Commissioner.

THE COMMISSIONER: It went to everyone, but then you’ve sent him an email that - - -?---“This make sense to you.”

- - - doesn’t go to everyone, it just goes to him.---Yes.

40 “Can you send her something as well, please.”---Yes.

Why did you want him to send Ms Davis something presumably to justify the matters that she’d raised in her email?---Well, I would want him to have certainly had a say as well. I don’t know if he was going to but I asked him, ‘cause I think his cliency had finished, I thought that would be it, so back on the payroll, can you provide something.

But he'd received this email from her.---I, yeah, I'm not too sure, Commissioner, if he did respond.

I'm not asking that, I'm asking why you asked him - - -?---Sorry.

- - - in that circumstance where he got the request from Zoe Davis
- - -?---Yes.

10 - - - and you follow it up with an email that's not copied to anyone else but just to him saying, "Can you send her something as well, please."---Yes.

You were keen to have him provide further support in the appointment of SNP, weren't you?---I think I was keen for him to, to actually reply in a sense Commissioner, I thought his tenure with it was over, that's why I've sort of said back on the payroll a bit, I was asking him to actually supply something as well.

20 But why would you want him to supply something?---Well, he was part of the team.

Very well. Yes, Mr English.---Sorry, sir.

MR ENGLISH: Well, if we go, I think it 250 was on the screen, and you can see it's an email chain. If we go over the page, 251 you can see Ms Davis's email - - -?---Yeah.

- - - that we were just looking at - - -?---Yes.

30 - - - previously from 20 March, 2015, and then on the same day you respond directly to Ms Davis. You can see that on 250 if you need to see that.---Yeah.

Yes. So you respond to Ms Davis and you say, "No order," and you set out these bullet points.---Yes.

40 Why was it you didn't do reply all there so all the Tender Evaluation Committee members could see your response?---I think, sir, it was a direct request back to, actually back to her, everyone to fill in the documents, if you could, if you had things to offer, and send it back to, to Zoe. That was my understanding of what she was asking.

Okay.---If anybody had time, fill it in, please, I need these, send them back to me.

Now, the second dot point, "Risk management and understanding," I think it should say, "Of the growth of the university and the security needs associated with same."---Yes.

What were you intending to convey by that?---Risk management and, risk management and understanding of the growth of the university and the security needs associated with same. Risk management and understanding of the growth of the university. Um, at the minute I'm not sure about the risk management, certainly an understanding of the growth of the university and the security needs being about customer service 98 per cent of the time I think they were there doing the job, they indicated they could also support Campus Assist in a concierge-type role if required as has been (not transcribable) relates to new buildings coming online, Queen Mary,
10 Abercrombie. Risk management, yeah, I'm not too sure exactly now what I was saying.

Well, an understanding of the growth of the university and security needs associated with same, you understood around this time that SIG was going to be used as a contractor, didn't you?---Well, they were listed in the tender.

So isn't the issue there in relation to the growth of the university that it would have had to be SIG's understanding of the security needs of the university, rather than SNP?---No, it would have been SNP, they're the lead
20 contractor.

Okay. And then you talk about the rate.---Rate.

"32.57 out-of-contract rates should not be underestimated as a long-term saving for the university."---Yes.

"They appear to run a tight margin here, however over the life of the contract they would make a profit." Do you see that?---Yes.

30 What basis did you have to make that statement in the second sentence?--- Well, they wouldn't be doing it without making a profit, but I'm saying that that was the lowest of all, the flat rate was actually one of the reasons that we certainly were pushing that way, I think everybody else had a pro rata ad hoc rate that could have gone into 40s and 50 and I think some \$60, but I'll stand corrected, but I think it was around obviously, they wouldn't be doing it at 32.57 if they were losing five bucks and hour, but that's probably just me saying a tight margin but - - -

40 Yes, but didn't that raise a bit of an alarm bell for you, that if everyone else is saying it needs to be on a sliding scale, how are they doing it for 32.57 as a flat rate?---No. I, I think what they were saying is that I think they saw the value in that rate if they got a five-year contract with a two-year option that obviously a lot of work coming on the university that would, that would be, you know, that would flatten out over time, they would pick up that much additional work.

Did you have a discussion with anyone about whether that rate was actually sustainable and in accordance with current laws and practices?---Oh, I don't, I don't recall during the meetings that it was raised, I just don't recall.

Do you know if anyone at the university inquired into the legality of that rate?---I don't.

Now, if we go back to page 250, Ms Davis thanks you for your response.---Right.

10

And then she says in the middle of the page, "They may not be that good but something to get down, Steve was in interviews, why he not speak up about the presentations?" Or sorry, that's you to Ms Davis. "They may not be that good but something to get down." Is that a reference to your dot points?---"They may not be that good but something to get done." I'm not too sure there. Steve was in interviews, he did not speak up about presentations. I'm not sure.

20

Okay. Then Ms Davis says, "Mate, he didn't say boo to a goose." That's probably a reference to Steve not speaking up in the presentations. Would you agree?---"Mate, he didn't say boo to a goose." Not sure, but, no, I'm not sure.

30

All right. And then she says, "Anyway, I fought and pushed and literally brought them back from starting to even cancel the idea of a consolidated contract and just go separately for everything solely based on price!!! I hammered it and got them back in line. Just have to provide a more beefed-up explanation of why," with an underline, "SNP is better and that additional guard services cost is justified." And then she goes on to use a bit more colourful language
- - -?---Yeah.

40

- - - and says she's having to go to a lot of lengths to get this approved. Now, do you understand there was some pushback from the university from those above you seeking a justification as to why, if at all, this contract with SNP ought be signed?---I don't. I'm just reading her documentation there. Yeah, I don't. It would seem to be more around a consolidated contract with all the four work orders in a single line item, but I don't recall, looking at just what she's saying.

Okay. Now, if we go to page 253, we can see it's some more emails chains, but if we go over to 255, you can see there's the email from Ms Davis to everyone, and then Mr Owens responds, "Does this include interview and documentation provided?" And then Ms Davis responds to Mr Owens and yourself, copying in Mr Vitange and yourself again.---Yeah.

She says, "Yeah, just basically trying to summarise everyone's positive comments in the evaluation of SNP to justify it, aka pump up their tyres in the recommendation."--Right.

What did you understand was the need to pump up SNP's tyres in the recommendation?--I, I, I don't know what she's, I don't know what she's speaking about there.

10 Then she summarises your dot points and on page 253 Mr Owens responds to Ms Davis's email. Says, "Points as requested. Other security companies that applied for the contract gave a graduating (increasing) scale for after-hours rates. SNP gave the one flat rate which, as discussed, has the potential for a substantial saving of money for the university over the life of the contract. We asked Dennis for an indication of the amount on short notice and it was not insignificant." Do you see that?--Yeah, I don't recall it. I'm reading it but I don't, I don't know what he's - - -

So it seems you crunched some numbers on the flat rate for ad hoc services. --I'm not sure.

20 Well, would you agree that's what Mr Owens was saying?--He's talking about short hours. "Short hours notice". I'm not exactly sure what he means by "short hours notice". "Amount of short hours notice". I don't know.

30 And do you say notwithstanding that bullet point there was sort of no analysis by the Tender Evaluation Committee of whether the rate proposed was consistent with legal and industrial relations requirements, the 32.57 rate?--I don't, there, there was an independent probity officer on that committee but I, I don't, I don't, I can't recall if it was discussed or investigated by (not transcribable)

See the last bullet point? "In interview, SNP also understood the future growth occurring at the university, the impact it will have and potential savings associated with the same."--I don't, that's come from him. I, I don't, I don't know what he's (not transcribable)

Well, were you in the interview with SNP?--I would have been.

40 And so it seems like there was a discussion about future growth occurring at the university.--Makes sense about the future growth, but I don't know the impact of potential savings (not transcribable)

And the future growth would have been out of contract. It would have been ad hoc services, do you agree?--No, it would have been major buildings and growth of the university, major buildings coming online. There was no, back in '15 it was really a core contract, so it would have been the growth of the university, the expansion of the, of the main buildings on, on campus.

Well, but those expansions and the more guarding services required would have been at the rate of 32.57 an hour, is that right?---No, it would have just, would have been more expansion of core hours was my understanding.

So just reading bullet point 10. When you were in that interview with SNP, was there a discussion about - - -?---Sorry, there's a 9, is that 10 or is there one over?

10 Sorry, the bullet point at the bottom.---Yeah.

When you were in that interview with SNP, was there a discussion that SIG would be used to fulfil the future growth and request for security services at the university?---In the interview?

Yes, in the interview.---I can't remember in the interview. Couldn't remember, sir.

20 So you gave some evidence yesterday about your relationship with Mr Sirour.---Yes.

And you, if I can summarise it, you saw him two to three times - - -

THE COMMISSIONER: Mr English, are you moving on to another subject?

MR ENGLISH: I am, Commissioner.

30 THE COMMISSIONER: We might take the break now.

MR ENGLISH: As you please.

THE COMMISSIONER: Come back at quarter past.

MR ENGLISH: As you please.

SHORT ADJOURNMENT

[11.04am]

40

THE COMMISSIONER: Mr Smith, you're on your former oath.--- Yes, Commissioner.

Thank you.

MR ENGLISH: So I was asking you before the break, Mr Smith, about the evidence you gave previously in relation to your dealings with Mr Sirour. ---Yes.

And so you'd meet him two to three times, on campus only, a year?
---Maximum.

Did you ever speak to him on the phone?---I'm not a hundred per cent sure but I don't think I've ever had a, a direct phone call with him but I just can't remember but I don't know I've ever spoken to him on the phone. I don't think, I don't think he'd even have my number but I'm just not sure.

10 What about emails?---Direct?

Yes, direct.---Again, I'm not, not sure but I don't think I, I don't know why I would have but I'm not sure, I don't know.

Well, as a subcontractor, would you agree that if he wished to get in contact with you, it should go through someone at SNP, if he had a query to raise with you, or at least with one of those people present?---Unless there was issue an issue around SNP he wanted to bring to my attention but - - -

20 Well, his dealings are with SNP under his subcontracting arrangement?
---Unless he had a complaint with them or something that he wanted to bring to my attention, but yes.

And then SNP, obviously working in the office with you and being two contracting parties would ordinarily speak about the performance of the contracted day to day matters, correct?---Yes.

30 So did you ever, in the times that you communicated with Mr Smith - - -?
---Sirour, sorry.

Sorry, Mr Sirour, thank you. Did you ever discuss ways in which he might be able to grow his business at Sydney University, that is SIG's business?
---He raised that in some of the meetings.

What did he raise?---He raised the fact that he would like to increase his hours and the answer was, it's an SNP contract, you go through SNP.

40 So your response to him in those circumstances was this is a matter between you and SNP, it's got nothing to do with me?---That's, yes.

And, I mean, you interests and a representative of the university would have been just to have, for example, requests for services filled in an adequate manner, correct?---With good guards and he did have good guards.

But just going back to your answer, the dealing with was between the university and SNP, the request for services would be provide to Mr McCreadie or Mr Balicevac, right?---Yes.

And then it would be their responsibility to either fill the position or coordinate with Mr Sirour to have the position filled?---Well, they should have, depending what the position was, it should be going through SNP in the initial instance.

You had an interest to ensure that the guards that Mr Sirour were providing were up to scratch?---Well, SNP had, well, yes.

Well, both parties did.---Both parties, yeah.

10

Yes. But insofar as Mr Sirour may have wished to obtain additional worker hours at University of Sydney, your position was not a matter for me, you can discuss that with SNP?---He should be discussing it with SNP. If he's asked me a question, I would have given him an answer but, in the circumstances, but yeah.

20

THE COMMISSIONER: What do you remember him saying to you?---He said, one time he actually, I think he said he wanted to take over the contract. I said, you, you don't take over a contract, it's an SNP contract, it's just ridiculous talk, don't raise it again. And probably, you know, that he would be available to do, to do additional hours, additional hours, something along those lines but the majority of times that I met with him, was just about his guards and I said keep the guards coming, they're a good quality of guard. And he wanted to meet one time, I think, without Daryl, it was a question about Daryl but anyway, I, I met with him because I thought, again, he may have a complaint about SNP. He always, he often said SNP, you know, aren't a good post but I said, that's a business decision, mate.

30

When you said he wanted to get more hours, did you ever discuss with him – I withdraw that. Did he ever raise with you the possibility of SIG contracting directly with the university for out of contract hours?---He may have, look, he may have said it, he may not have but I don't remember the conversation.

And if he said that, what would your response have been?---Well, it depends what we would have been doing. I mean, if we were going to market or we were going to, we were going to a tender or market, he, he could have applied like anybody else but generally he's, he's contracted to SNP.

40

MR ENGLISH: Well, SNP had a contract for a minimum five years from 2015 to 2020.---(not transcribable) contract.

Yes, with a two-year option.---Yes.

So in that period from 2015 to 2020, if Mr Sirour said, oh, I want a contract directly with the university to take some of this out-of-contract work, what would your response have been to that?---In that, in the contract work that was already existing, that, that was the rule. There was some discussion

about additional ad hoc work or different, different hours. I can't recall exactly when and what that was, but he would have been able to apply for that as any other agency.

10 So was there a discussion at some point that some of the ad hoc work may have been put out to a new tender?---Some of the ad hoc work, well, not, I don't specifically remember if it was ad hoc or they were changing some processes, which never happened so I don't, I don't, I don't recall exactly around it because it never happened. We just continued with SNP and I think broadened the, broadened the scope for them. Mr Sullivan did it (not transcribable) not sure but - - -

THE COMMISSIONER: Was there any discussion between you and Tommy about contracting with the university using another company?---It was, I thought Daryl, I thought Daryl mentioned something once to me about a, a third company, but I didn't know if he was buying a company or he wasn't buying it or what the situation was, but I vaguely remember a conversation but exactly, I don't know.

20 With Daryl?---With Daryl I think, yeah. I thought it was Daryl.

Thank you.

MR ENGLISH: Was there a discussion that you had at any time with someone from the university about establishing a panel of security service providers for different tasks?---I, vaguely. A panel of security, I think that was in the time they were looking to get additional, some additional services, but what those services were, I can't remember.

30 And if you discussed those matters of that nature with other people at the university – not SNP employees but within the university – would those discussions have been something that was confidential?---It depends what, where we were in the discussions and what they exactly were about.

If we can bring Exhibit 35, page 272 on the screen, please. So you see down the bottom, if we can just increase that, this is from Steve Sullivan to you on 5 November.---Yes.

40 “Can we discuss putting in place a panel of security service providers to support events for special requirements such as RSA.” Responsible service of alcohol, is that?---Yes.

“Crowd control and bag searches, cash collection and other bespoke service requests.”---Yes.

And then you say, “I've made notes already. If you make some, we will combine a report in the morning, allowing time for Steve,” sorry, you forward that on to McCreadie, saying, “I have made notes already. If you

make some, we will combine a report in the morning, allowing time for Steve to send it back to us for changes. He has a meeting on Monday.”
---Yes.

On Monday, a Monday meeting.---Right.

10 He has a meeting on Monday, a meeting. So discussion about a panel of security service providers, and you’re sharing your notes with the current contractor about that.---Yes, so, it’s, bear with me, sorry. Not exactly sure if I had a conversation with Mr Sullivan, but part of, part of what this panel was is that these were additional contractor services coming online, so there may not be staff, security staff who were already there. My question around Daryl was actually who would be supervising these third parties. So if ABC Guards came in, who’s actually going to be supervising that guard? Are they taking directions from the team leader from SNP? Are SNP responsible for this group after hours? It was that, that sort of discussion I was trying to get back to Mr Sullivan with about some of those logistical issues. Who’s, who’s got actual rights of authority, that sort of thing. That was my discussions, from memory, around involving Daryl. Is SNP going to take on responsibility of managing ABC Security if they came on for some bag searches or crowd control because there’s no university people there after hours.

20 And to your understanding was SIG discussed in that discussion of being a panel of security service providers?---I’m not sure when it, I just can’t recall the details, but from me to Daryl it was more around the issues of supervising this next group of people if they come in that aren’t already a group that works at the university and how that’s going to work, because it would have been obviously first thing for Mr Sullivan to ask.

30 Why wouldn’t this work just go to SNP as the incumbent there?---I, I don’t know. It would have to be asked. I can’t, I can’t remember. I can’t remember.

And then Daryl forwards it on to Tommy “what we spoke about”.---Daryl McCreadie to Tommy. “What we spoke about”, yeah, okay.

40 So did you speak about those matters at any time with Tommy, being a panel of security service providers for other special events?---When is this? November 2015. I’m not sure if, if there was, if it was being timed around, if it was a meeting that there may have been additional services, but I’m not, I don’t, I don’t recall.

So you might have had a discussion with Tommy about him providing additional services in those respects?---I’m not sure if it was relating to this or a general, a general discussion that I could recall.

The Commissioner asked you yesterday about Mr Hardman.--- Yes.

Simon Hardman.---Yes.

Ex-police officer, I think. Did you have anything to do with him when you were a police officer.---I didn't know him.

You had some dealings with him when you were at the university and he was at Newtown Local Area Command, is that right?---Yes.

10 How was it that he obtained the job at the university? That is, Mr Hardman.---I think he ended up applying for the senior manager position, I think. He left the police and then applied for a position later on at the university.

If we can go to volume 2, page 1, if that can be brought on the screen, please. Can you see an email chain between you and Mr Hardman?---Yeah.

20 You had regular meetings, did you, with the police?---No, see, this is their senior management meetings at the university. We let them host them on campus because they didn't have any facilities at Newton. The actual police station is very small, so the university encouraged them to actually meet on campus and bring police onto campus. So that's their management meetings every, every month.

And did the university supply refreshments or food or something for those meetings?---Yes, yes, they would have, yes.

30 Because he goes on to say, "However," see that, "if you want to continue the tradition of looking after us deluxe throughout 2015, that would be excellent also."---Yeah. I think there's two variants of sandwiches, a pretty ordinary one and a deluxe version. You know, that's - - -

All right.---That's what that refers to.

So that's an email in December 2014. And then do you know when he left the police officer, Mr Hardman?---I don't, I don't, sir. Don't exactly remember.

40 Well, if we go to Exhibit 36, page 93. You've sent him an email, to Hardman at his personal email address. You clearly had that address, do you accept?---So the back is just blanked out, is it, the, yeah, okay, yeah.

Yes, it's not a police email address.---Okay, so he would have, he would have, he would have left, yeah.

So you obtained his personal email address and then you seem to be passing on some dot points in relation to, would you agree, his application for a job at the university?---Some dot points (not transcribable) I mean they were

broad, yeah, they're broad, they're broad areas there around contract and meetings, yeah.

So I think the rest you might be right on. Had you had a discussion with him prior to this about his application to join the university?---He did come up a couple of times and go around the university more with an idea of actually joining the university as, as opposed to a police officer and look at the university more closely.

10 And so he applied formally for that position?---Yes.

And did you have any role in his recruitment?---No, I wasn't on the panel. It's a high-level panel.

Why was it that you were sending him this information one would assume in addition to what was contained in the recruitment package?---I think it was a broad discussion that, that we had, stuff that was already, you'd be expected to know I guess if you're applying for that sort of job. It's a high-level job and these were broad areas that you would have been expected to
20 know and they would have been probably almost mirrored in their application. I can't remember the application document that would have, the info pack. Yeah.

So this is Morgan Andrews's role that he came into after you were acting in that role?---Yes.

So you say to him that in that role that you were filling at that time on an interim basis there was an expectation to oversight a number of major commercial contracts?---Yes.
30

So that must have been your responsibility at the time you wrote this email. ---20 April, the expectation to oversight a number of commercial contracts. Yes, I was doing two jobs so, doing it half as well as I should have been.

You speak about a number of stringent procurement policies in place for high-value contracts.---Stringent procurement.

Dot point 2.---Yeah.

40 And then dot point 3, contractor meetings, audits, probity checks all ensure the contract is being managed accordingly.---Yes.

So were you conducting those meetings, audits and probity checks at the time to ensure that the contract with SNP was being managed accordingly? ---I was doing the, the KPIs as best we could. I was doing two jobs. Pretty much overworked and we're totally under-resourced by this stage. We didn't have even really a campus security unit so we just needed someone in there fast.

So just on that. So you were managing, were you chairing the monthly management meetings once Mr Andrews left between SNP and the university security staff?---Daryl and I would meet, so in August, so Mr Andrews chaired those until he left and then I think, we established that yesterday was July or August, did we? I thought August.

10 He left in July.---So it would have been around August. So my, yeah, so I was then, had a role in managing the KPIs. Mr Tamasauskas would manage the electronic services side, the Telstra side of the business. He would talk through his and then I would talk through Mr McCreadie in a management room the, the KPIs for the ops.

Can I ask that Exhibit 71, page 42 be brought on the screen. This is a work order for the contract between SNP Security and the university. Can you just go, you can see it's signed on the following page and then if we go to page 44 there's some deliverables. The first dot point deals with the main contract positions, doesn't it, providing security officers to fulfil static control room, SEINS enforcement, bus driver and patrol officer duties required by the university?---Yes.

20 And then over the next page, page 45 there's the KPIs.---Yes.

So is the Commission – I withdraw that. Is the Commission to understand that in Mr Morgan Andrews's absence from July, 2016 you were responsible for dealing with these KPIs at monthly management meetings? ---Co-responsible with SNP. Under their tender they're responsible as well.

30 Well, if we look at KPIs 5 and 6.---Sorry, 5 and 6?

Yes.---Yes.

All university buildings are to be patrolled at least once every 12 hour period measured by building attendance reports not to be below 85 per cent achievement. Do you see that?---Yes.

Whose responsibility was it to generate the building attendance reports? ---Mr Ledford.

40 Mr Ledford. Okay. And did he do that at each of the monthly management meetings?---No.

Why was that?---Various reasons. He was substantially ill for a number of months in 2016 into 2017 and on some of the other occasions I'm not too sure but they weren't delivered.

And what about point 6. Again there's a reference to building attendance reports. Were they obtained so that KPI 6 could be evaluated at the monthly

meetings?---Yes. KPI, so KPI 5 actually, KPI 5, well, Mr Ledford's view is that that couldn't actually be measured. So that's one that actually he couldn't measure with his data. So all university buildings are to be patrolled at least once in a 12 hour period. That actually wasn't being able to be, couldn't be measured. That's his - - -

Couldn't be measured or - - -?---Couldn't, couldn't be measured, couldn't be measured on the data.

10 Couldn't be measured or he didn't have the capacity to be able to create the data and present it at the meetings?---No, I think he, I think he said he couldn't, his, my recollection of him is this one that couldn't actually be physically measured. So 6, all 24 hour spaces. Number 6, sorry?

Yes.---Yeah. So that one was, that one was now a little outdated because we had officers in, you've actually got people in the 24 hour spaces, your major 24 hour spaces, your libraries, Fisher Law and so it just minimised those other areas which all had CCTV as well.

20 So how was the KPI met? How did you know whether it was met or not at the monthly meetings?---So that one would have been hard to measure because you've got guards already in, in your major 24 hour spaces and the others two patrols a night. He should have been able to give us a report at least for the other, the other 24 hour spaces but it wasn't often forthcoming.

30 So in light of I think your evidence there that KPI 5 couldn't, Mr Ledford said it couldn't be measured and 6 was hard to measure - - -?---Well, not hard to measure in the sense but that actually, the major 24 hour spaces actually had static guards in them now, since the contract started. The non-urgent responses two and a half hours. They're always there before two and a half hours. Part of the synopsis I used to get of a morning printed to me, part of that review of mine is checking you have, I'm sorry, it's over the page, but there are other documents there which would give me an indication that these people are attending the, attending the jobs within two and a half hours. The synopsis reports that were printed for me in the morning would give me a range of incidents.

40 I was talking about 5 and 6. Can we just focus on that?---Okay. Yeah. 5 and 6, yeah.

How were you able to satisfy yourself at these monthly management meetings that KPIs 5 and 6 had been achieved?---Well, 5 we, you could not and 6 we did have, we did have officers in the 24 hour spaces and the report would have shown some measures of attendance reports in, in the other 24 hour spaces.

Well, you mentioned Fisher, sorry, not Fisher Library. You mentioned the law, something - - -?---Fisher Law is your 24 hour space. If you just think,

sorry, that library went 24 hours so that is classified as a 24 hour space. So that was our biggest one. The other 24 hour spaces where students go in and have to badge in are very small. They're not, they're not a large room.

Is your evidence that it was hard to measure whether, in relation to the smaller 24 hour spaces, whether they were patrolled two times each night?
---Without the documentation from Mr Ledford.

10 What about measuring KPI 1 that, "Appropriate officers as required by the university will be made available to fulfil the requirements of the statement of works, measured by hours required to hours delivered not to be below 99 per cent achievement." How did you measure that one?---So very broadly, but that was mainly dealt with in the uncovered shift report in the contract. So between Mr McCreadie and myself, he would go through any uncovered shifts in the month and the shifts that weren't uncovered obviously lead us to a figure around the 99 per cent achievement or not.

20 So this was done every month, was it, this reconciliation of the uncovered shift reports?---Yeah, I reckon, yeah, that's actually listed in the contract.

What documents did you rely on to perform that analysis.---The actual, the contract itself. It comes with a monthly reconciliation at the back and I would ask Mr McCreadie, have we been reconciled for any credit this month, or absences, yes, and pretty much that, the absences would account for your, your 99 per cent achievement rate.

So you'd just say to Mr McCreadie, have you made 99 per cent and he'd say yes or no?---No. We'd have a look at the uncovered shift report.

30 Just can you assist in explaining what is the uncovered shift report? Is it a document?---Yes.

And what does it say, does it give you a percentage figure of how many shifts have been- - ?---Yeah, yeah. If there have been shifts lost, Mr McCreadie has to account for them.

40 And did you understand how Mr McCreadie was able to determine what the relevant figure was in that report, did he tell you?---Yeah. So, it, well, it went back to their rostering. Obviously their auditing processes would have been that there, we get a credit for an uncovered shift.

So was this a responsibility compliance with which you were completely reliant on SNP?---In terms of the uncovered shifts?

Yes. In terms of KPI 1, were you completely reliant on SNP to tell you whether or not they had met the benchmark of 99 per cent achievement?
---No. We're, I'm making my own observations through the month as well, in terms of staff who were there physically when I'm there.

But that's, on your evidence, until 3 o'clock.---Seven hours a day, yep.

So that's not going to be sufficient, would you agree, to determine if 99 per cent achievement has been fulfilled?---Yes.

So you're relying on your own observations plus what Mr McCreadie tells you, is that fair?---What's in the monthly contract in terms of, in terms of uncovered shifts.

10

Observations plus uncovered shift report provided by Mr McCreadie? ---SNP, not Mr McCreadie. It's in, it's in, SNP head officer provide the contract. It's a very difficult one to measure. And obviously these KPIs only refer to the contract, they're not the ad hoc. These KPIs refer to this, the actual contract, not the ad hoc works.

Just coming back to, perhaps, each of 1, 5 and 6, did you ever consider conducting a review of swipe cards to determine whether compliance with those KPIs had been met?---No.

20

Why not?---It's workplace surveillance data.

Pardon?--- It's workplace surveillance data. The contractors were, so the university security team are the holders of that information, CCTV for the university, access control data, any other data of comings and goings of contractors or affiliates is treated the same as actually a staff member and unless you have a serious allegation or complaint, you can't, we get constantly requested every week for access data across 32 faculties. Now, those requests to OGC privacy, the answer is always no. It's actually workplace data so you can't use access control data in and out as a, as a general means to see if people were coming and going and that was our advice from the privacy commission, sorry the privacy unit with the Office of General Counsel.

30

Privacy commission within OGC?---Yes.

What about GPS data on radios?---The GPS data on radios, so, okay - - -

That was held by the university, right?---The, well, all those records are university records, even GPS.

40

Yes, because they're university radios, correct?---Yes.

So what about using the GPS data from, those radios to determine whether KPIs 1, 5 and 6 had been performed, was that ever discussed?---No because I'd suggest that's still under workplace surveillance. The GPS on those radios were actually a, a first responder close to the scene to an incident of descent and/or an officer down alarm on those.

So your evidence is, as I understand it, advice was received from the Office of General Counsel that the use of swipe card data or even GPS data could not be used to track KPIs for compliance purposes with the SNP contract with the university?---Yes because it is, falls under workplace surveillance. Mr Ledford's understanding as well, because we can generally knock back requests every week for it. I mean, we're, we're the security team, so we're the holders of that information. You can't really just go using it for yourself.

10

Well, what's its purpose then?---I, I'm not going to, I'm not learned enough to get in to a discussion about a, a piece of legislation but our information is that they fit under the legislation.

But, I mean, if it just identified the number and where the number's been at a certain time, I mean, what's the privacy issue, that you understand?

---If there's a number, it's a personal access card. We're issued with personal access cards, guards.

20

So that links up to someone's name and it says that they've clocked in at a certain time. What's the privacy issue there, that you understand?---It's not for me to answer that but - - -

Well, you said you received advice from OGC. Was it written advice or was it oral advice?---I can't exactly recall. Mr Ledford mostly dealt with them but it, it's certainly advice, an advice we got for not just security but every other faculty and department. So unless there was a very high requirement for it that would oversight, would overwrite it, on occasion there would but normal run of the mill comings and goings of staff, affiliates, contractors, our advice that it wasn't to be used.

30

If you can go please to Exhibit 73, page 140.---Sorry, did I say CCTV in that as well? Because that, that came in the same, the same thing.

I don't think I asked you about CCTV but I think you mentioned it, yes.

---Oh, it came in the same, same again, sorry,

So this is a statement of information that was provided by the University of Sydney in response to a request by the ICAC. You can see the date's 10 September, 2018.---10 September, 2018, yes.

40

Were you consulted at all in relation to the provision of this statement, to your knowledge?---I'm just trying to think what I, I don't think I would have been there on 10 September. No, I would have been on sick leave. I was on sick leave until I ran out of sick leave and then left but see, I would have, I would have left in about the second week of June, 2018.

So you went on sick leave in around the second week of June?---Second or third week of June, something like that so I don't know. I don't think - - -

I'd just like to draw to your attention what's on page 142. See, there's a question, "Any consideration by the university of subcontracting arrangements involving SNP from the time the original contract with SNP was entered in to until present?"---Right.

10 Have you seen this document before, I should ask?---I, I'm looking at it, no, I - - -

It doesn't seem familiar, is that your evidence?---Well, no, I would have been on sick leave since June, so this is - no.

You see, it says, "For the period of 2009 until May, 2018, SNP did not seek or receive written consent from the university as a subcontractor, provision of security services, although the potential for subcontracting was referred to in the 2009 and 2014 tender process." Do you see that?---Okay.

20 Is that according with your understanding?---Oh, I, I don't exactly know that detail.

All right. Just look at, go down to the next, skip a paragraph, go to the next.---Yes.

In its response to the university's 2014 request for tender, that was, you were a committee member in relation to that tender, remember. SNP stated it would use S International Group as a subcontractor for guarding services surge support. You see that?---Yes.

30 It says, "The university's understanding was that SNP would provide its own staff to service the work orders that form the core guarding services under the 2009 master agreement for guard services and that a contractor would only be used to provide supplementary staffing at infrequent times of sudden increase in demand, i.e. surge support." Is that your understanding? ---I'm reading it. It's not my understanding, but I'm, yeah. Yeah.

40 And then skip another paragraph. "The university has not given written consent to SNP subcontracting any of its obligations under the 2009 or 2015 master agreements for services, whether to SIG, Telstra, SNP, Complete Linemarking or any other party. The university's prior written consent to subcontracting is required by clause 4.5A of both master agreements for services. SNP's failure to obtain prior written consent is a material breach of these agreements." Did you have any knowledge of that?---No.

If we go over the page, then. Under (d), "Any approvals to SNP, whether formal or informal, about what subcontracting would be allowed to S International Group."---Yes.

It says, "It appears that some members of the Campus Security Unit were aware that SNP were subcontracting to SIG for ad hoc or surge support. However, the university has no record of formal or informal approvals being granted to SNP for subcontracting to SIG. Do you see that?"---I'm reading it but - - -

10 Would you classify yourself as a member of the Campus Security Unit who was aware that SNP was subcontracting to SIG for ad hoc or surge support?
---It was in their, in their tender.

So is it yes or no?---They were doing some work.

So you were a member of the CSU that was aware that SNP was subcontracting to SIG for ad hoc or surge support? Yes?---Yes.

I'm going to come back to that in a moment but I just want to take you through a couple of these responses. (g) at the bottom of the page.---Yes.

20 It's under the heading "The consideration that was given to requiring SNP to provide assurance that they were monitoring the delivery of security services as charged." Go over the page.---Can I just, okay.

So you see "In order to provide some assurance as to the quality of services provided and charged for, the university requires SNP to attend monthly meetings at which the key performance indicators under the terms of the master agreements for services are reviewed and discussed." Do you see that?---Yes.

30 Do you agree with that?---Yes.

"At those meetings, the services and their delivery are reviewed. Issues are identified and improvements or actions discussed and agreed upon. The university in its monthly meetings with SNP seeks to satisfy itself that the security services are being delivered as charged by conducting random dip samples of the services invoiced in order to test whether or not they've been provided." Do you see that?---Yes.

40 So this conducting of random dip samples, was that something you ever did at monthly review meetings with SNP?---I'm reading this for the first time so I'm just going to read it again. Well, it would have been through some of the KPIs, the dip samples on the KPIs and the services.

What's a dip sample?---Road marking, you go and inspect the jobs that have been done. Electronic services, Mr Tamasauskas would have gone and inspected the parts list that has, has been issued for the month. He would check the actual physical parts that had been installed. The guarding, as I said, we have our dip samples. You're walking around. You're seeing

guards that are supposed to be positioned in some events turning up on the normal rotation roster when you are there. And I'm missing one there. The cash collection. The cash collections are audited. It's the third KPI which (not transcribable) talk about here, but it's, it was an important KPI, sorry, an order under the master services agreement as well. So they were audited, money collection (not transcribable) damage.

10 Let's just focus on guarding. So is your evidence that the dip sampling of guarding is you observing security guards on campus each day?---The dip sampling of guarding?

Yes.---Not in isolation. It was one part.

So if you're not there on Saturday and Sunday and you're not there at night, what's the dip sampling in relation to those periods?---Well, it's calling in, phoning in, talking to the team leader. Have you got your team? There's a number of jobs on the weekend, you'd go over what those jobs were. So you're relying on an SNP team leader to tell you the truth.

20 THE COMMISSIONER: But that's not dip sampling, is it?---Well, what is it, Commissioner? You're ringing, you're not there, you're trying your best to run a service, a managed service - - -

You may have been doing your best but I'm just pointing out to you that I wouldn't regard that as dip sampling.---Yes, but we do dip sample the invoices, of course, the contract and the ad hoc contract, which we went through. We - - -

30 And the time sheets?---Well, you'd walk in there once a day, have a look at the time sheet. But again, they're, that, it's an SNP document that really they should have been managing.

Mr English.

40 MR ENGLISH: Then down the bottom of page 144, the second set of bullet points, there's a, as a lawyer would say, a chapeau to those bullet points saying, "Apart from these measures, assurance was also obtained from SNP on a regular basis through Campus Security Unit personnel about the delivery of security services, primarily through measures such as daily face-to-face discussions with Mr McCreadie of SNP and the Campus Security Unit's operations manager, during which, amongst other matters, confirmation is sought and provided that SNP has a full team of guards on duty as per the master agreements for services."---Yes.

That's you and Mr McCreadie. So you're seeking his confirmation there, is that right?---Yes.

And then “A daily headcount of guards by the Campus Security Unit’s operations manager, head of security, via a physical patrol of the grounds, check of CCTV footage and review of records such as shift handover report.” See that?---I think they’re gilding the lily a bit there.

Well, that’s you, isn’t it, Campus Security Unit’s operations manager? Is that you?---Yeah.

10 So saying you did a daily headcount of guards, is that right?---That’s what that’s saying. I’m not saying I did a daily headcount of guards.

And check of CCTV footage. I thought your evidence a moment ago was that couldn’t be used to check on the whereabouts of guards.---Technically it should not be. But if you happened to be in the control room and you were scanning the library and you found three guards in there, then it, it, I may have used that. But, no, you’re not allowed to use it.

20 What would you be scanning the library for?---Because you have guards in there in the day.

I thought you said you weren’t allowed to use the CCTV footage for privacy reasons.---Well, you’re not allowed to use it, but if I’m scanning the library and I see, I see a guard that’s supposed to be there, well, that’s, that’s a confirmation in my head they’re there. That’s what I’m saying.

So you say that this is overstated, this second bullet point about what you actually did in relation to ensuring that security services were provided at the university?---Well, I can say I wasn’t consulted.

30 You weren’t consulted? Can I just ask you, the word “dip sampling”, is that a word that you’ve used before?---Checks and balances, dip sampling, I mean, it’s, it’s the same sort of scenario but I, I don’t remember having input to this document. I’ve never read it before that I can see.

When you came before this Commission on a previous occasion, on 8 August, 2018, you said that you did dip sampling.---Yeah, I would have said dip sampling, yes.

40 So did you know anyone else at the university in your team who used the phrase dip sampling?---I’m not sure.

And then if we go to page 155, it says, “Describe the checks that were undertaken by managers at each level of Campus Infrastructure Services into the provision of security services to obtain assurance that the services were being properly monitored and delivered from 1 January, 2015 to present via details of the frequency, document names, any processes involved and a list of people who undertook those activities from 1 January, 2015 to present.” And it goes on to say, “The following checks have been

in place.” Just read the first bullet point.---“Daily headcount of guards via a physical patrol of the grounds, check of CCTV, review of tools at shift handover. Currently this function is being performed by the head of security.” So that’s actually talking post now Mr Hardman’s, because that, that position never existed, head of security - - -

But that says currently. So from 1 January, 2015 it’s suggesting that you did those activities.---Yes. There was no, there was no line-up on the wall and count 15 people a day, I can assure you of that.

10

What’s this shift handover report, what’s that?---That was brought in after the, after the execution of the warrant.

So that wasn’t in existence - - -?---No.

- - - from 1 January, 2015?---No. Not that I recall, shift handover, no.

20

And then so second dot point, “On a daily basis the operations manager or acting operations manager confirms with the SNP team leaders that SNP has a full team of guards. Is that just you confirming with Mr McCreadie that everyone’s here orally?---No. So the alternating team leader would come out in the morning, we would sit down, we would go through a synopsis of the day’s events, anything overnight, and then obviously the questions, have you got a full team coming in today, are there any issues, any sick (not transcribable)

That says on a daily basis, what about on the weekends?---Usually call, I would usually call most weekends.

30

You’d call in and have that discussion, would you, with the team leaders? ---Because most of your larger events, your power shutdowns and, they’re all planned for nights and weekends when there is no, no university staff or students on ground, so yes, part of my job is to call in.

So every Saturday and Sunday you’d call in and have that discussion with the team leaders?---It wouldn’t be every Saturday and Sunday, but they might ring me for advice, which was regular, day and night, and obviously when that phone call was made you also do your check-in.

40

Now then 158.---Sorry.

B, down the bottom.---B.

It’s talking about the KPMG report.---Oh, yes.

It says, “Who reviewed or examined the report within the university?” “At or about the time the report was received in 2016 the report was reviewed by Mr Sierra, Mr Duffy, Mr Sullivan and Mr Smith.---Ah hmm.

Is that accurate?---Well, we've seen that I got the report but I'm not sure of the level of review of the others. I don't know.

Okay. All right. And then over the page, "Describe what action was taken as a result of the report." "The university took the following action as a result of the report. A copy of the report was provided to SNP for its response and comment." Do you know if the whole report was provided or just the observations which you sent along?---No, I think we can safely say perhaps it was just the observations, but I'm not sure (not transcribable)

Okay. So then there's, "SNP provided a formal response."---Yes.

Which was received by you. We've seen that formal response.---Yes.

And then you and Mr Sullivan reviewed the response and were satisfied with the responses and actions taken by SNP with ongoing monitoring of SNP's compliance to occur via monthly contractor meetings. Okay. See that?---"Smith and Sullivan reviewed SNP's response. They were satisfied." Okay. So can suggest to you that that's not 100 per cent right.

Okay. In what way isn't that 100 per cent right?---Well, neither Smith nor Sullivan were actually here when this was written, I'll just suggest that, at the university, and our view that, our view was, I remember talking to Mr Sullivan, that we were waiting on some more in-detail responses from Mr Sierra, Mr Fisher and other parties, I'm not sure about Mr Duffy, within CIS. So that's my sort of recollection of interaction with Mr Sullivan, that we could do what we could do on the ground but there's, some of those issues, I described it as the back-end, but you're talking payroll data and interaction with SNP governance, it certainly wasn't being able to be done by us.

All right.---I remember him telling me that. So what I'm saying is, neither him nor me were there and it could be a suggestion there that's not a bad way to write a paragraph when neither are at uni anymore.

All right. So were you satisfied with the responses and actions taken by SNP as outlined in that letter that we looked at yesterday?---Was I satisfied with the – I'm just trying to think if I actually did a report for Mr Sullivan, but certainly in what we could manage, I think there were, were a couple of issues around training, there was a confidentiality document to sign or something when they came in and some training modules, whatever the couple of topics were on the ground satisfied and there were issues, larger issues which is governance which obviously we weren't satisfied that we could manage on the ground.

All right. And then it says, "With ongoing monitoring of SNP's compliance to occur via monthly contractor meetings."---Yes.

That's just a statement of what was happening in any event, isn't it?
---"Monitoring of SNP's compliance to occur via contractor meetings."
Some of those discussions would have been held between the month about, with Mr McCreadie around training, around some guard issues. It would be formally, we would formally meet at the end of the month or into the next month, but there would be some discussions around the front-end of this during the month.

- 10 So just if we can go to Exhibit 90, which was the email you were shown yesterday. So if we go to the second-last page, just to remind you, this is when you sent across the key observations findings from the KPMG report.
---Yes, yes.

And then on the next page you can see Mr McCreadie said that you had read the report and said that you had no major issues regarding what the auditors had highlighted. Now, you dispute that, that was your evidence. Correct?
---That's Mr McCreadie writing that, isn't it?

- 20 Yes.---Yeah, yeah, because I had, I had meetings with Mr Sullivan about some of the issues so we weren't, we weren't fully satisfied.

All right. And then if we go to the preceding page.---"I've been working on some notes with Dennis" - - -

That's it. So then you can see Mr McCreadie says, in response to Sue's email saying, "Tammy will prepare a formal response for the client."
---Yes.

- 30 Mr McCreadie says, "Before you do that can I please send you some notes. I've been working on some notes with Dennis Smith that I can send through in response to KPMG's audit.---Yes.

And if we go to the first page, he said, "Sure, send them through, Daryl."
And then he says, "Working on the doc today, just having trouble converting from pdf to Word so I can insert the comments." And then he said on 11 August, "I've inserted notes to explain the auditor's comments, drafting a response now to look at before we respond. Okay. So I've got a copy of those notes.

- 40 Commissioner, I seek to tender this, perhaps it can form part of Exhibit 90. I can hand up a copy now.

THE COMMISSIONER: Certainly. You want that included in Exhibit 90?

MR ENGLISH: 90, yes, please.

Okay. So just bearing in mind that these are the notes that Mr McCreadie says he's worked on with you - - -?---Mmm, yes.

- - - you can see the extraction of the report, the observation, and then there's Mr McCreadie's response under DM.---Okay.

10 So just reading above the response, 1.1, it says, "On I'm performing a reconciliation between the rosters, sign-in/sign-out books and payroll data for a sample of 10 SNP staff, internal audit identified practices that could potentially circumvent SNP's obligations regarding payment of overtime to security guards. On 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." And you see, "This practice may pose an occupational hazard to staff who work on a continuous basis without adequate rest breaks." So you recall I asked you some questions yesterday about your knowledge of SNP working for SIG, and you said you didn't have any and I had to bring some documents to your attention which suggested you did. You recall that?
20 ---Well, there were documents there in writing but I'm not too sure I still recall them.

Well, this suggests you discussed this issue with Mr McCreadie, that SNP staff were doing overtime as SIG staff, do you agree?---From Daryl's response, is that what you're saying or - - -

Well, yes, because Daryl says he compared these notes, the response to these matters with you.---I'm not sure that happened.

30 And then where it says, "This practice may pose an occupational hazard to staff who work on a continuous basis without adequate rest breaks," as a manager that would have raised concerns with you I think you agreed yesterday?---Yes.

And then it goes down to say, "The above was supported by the following discrepancies as noted in our testing and site interviews."---Sorry, I was just reading McCreadie's response there but I just, because I hadn't seen that before either. Okay, so, sorry, yes.

40 So looking at (a) just beneath that.---Yeah.

Overtime not paid to staff. So there's an excerpt from clause 12.1 of SNP's EBA and then it says, "It was noted that four out of eight staff," sorry, "It was noted that for four out of eight staff there were instances where the number of hours recorded in the sign-in/sign-out records was more than those specified in the SNP roster. However, as per payroll data, this was not paid as overtime. This may be due to the fact that the same security guard is working for both SIG and SNP. The same sign-in/sign-out sheet is used by SNP and SIG, therefore the total hours recorded there would mismatch with

the SNP payroll data, with the balance being paid by SIG, which we were unable to validate as this related to SIG payroll data. However, our instructions with sample security guards confirmed that some guards are working both as SNP and SIG staff, often on advice from SNP as means to get additional work without getting overtime allowance.” Now, it would concern you, wouldn’t it, as a manager if there were practices in place which led to guards not being paid what they were entitled to under the relevant award or EBA for overtime?---It would, it would, it - - -

10 And here’s KPMG saying, “We were unable to validate this as it related to SIG payroll data.” Right? You see that?---SIG payroll data, yeah.

And are you aware that, just bear with me one moment. Are you aware that the KPMG report was limited to an analysis of SNP, SNP’s business and not SIG’s?---Oh, I, I don’t exactly know.

Well - - ?---I never saw the scope of the document at the front end. I never had any involvement, as I was mentioning yesterday, in any of the process until I got the final synopsis.

20

Bear with me, Commissioner. I’m sorry. Just bring up the Exhibit 71, page 208. You see Scope Exclusions?---Yeah.

“This internal report was limited to assessing the processes and controls relating to SNP Security contract only. There was limited testing performed on subcontractor data. Contract compliance for the contract between SNP Security and their subcontractors was out of scope.” Do you see that? ---Yes.

30 And you read this, didn’t you?---I’m not saying I did, did read the scope.

Well, you said you read the report in full I think in your email.---The actual, can’t exactly, so in the, I read the report or the actual synopsis of the report at the back end? I said I read the report.

Well, you’ve said in Exhibit 90, “I have read the full report.” Do you say you didn’t read the scope exclusions?---If it’s in the report then, then maybe, but I, I don’t remember scope exclusions precisely.

40 Well, if we can just go back to the attachment of Exhibit 90. Well, here you’re being told – and it would seem potentially discussing this matter with Mr McCreadie – that KPMG was unable to validate matters that related to SIG payroll data. Now, do you remember that being raised at the time, that issue?---Are we talking about McCreadie’s response here or are you talking - - -

No, this is KPMG here who’s saying that.---Yes. Right.

Not McCreadie's response.---No. Yeah, there were, I know what you're saying but I'm not saying I was involved in these responses.

So KPMG's raising a number of concerns in relation to payment practices and they're referring here to sign-in and sign-out sheets and the like, and they're saying, well, we don't have the layer beneath so we just can't get to the bottom of this.---Yeah.

10 Now, you would have read this at the time. Did that raise any concern in your eyes?---Look, I don't exactly recall the layers there, but, you know, they were checked.

Well, but this is it, they weren't checked, were they? Because they couldn't go beyond the SNP documents, so - - -?---Oh, sorry, they, they weren't checked, yes.

KPMG's saying these layers weren't checked. Do you understand?---Right. Okay, so - - -

20 And did you, having read that did you speak to anyone at the university about that and say, hey, there's a, there's only a limited scope in this report. Maybe we need to look a bit further and see if there's similar practices with the subcontractor. Did you do anything like that?---So I did allude earlier to the discussions with Mr Sullivan, and that was around we were trying to do what we could at the front end, on the ground, but a lot of the auditing and governance – which was around the payroll data and some other strategies he thought that the university might pull in – was at that level, and that's where I thought he mentioned Mr Fisher, Mr Sierra, and one or two others. But that, that was our discussion around the context of the report.

30 Now, you can see Mr McCreadie's response, "It was explained to KPMG that as a business we have to manage overtime costs and that we have approval from USyd to use SIG as a nominated provider under the contract to pick up additional work. See that?"---Yes.

40 Would you have had input into that response?---I don't think so. I can't remember responding to that within this. "Explained to KPMG the business manage overtime costs and that we have approval from USyd to use SIG as a nominated provider." Well, they were in their, in their tender brief. They were listed as an ad hoc and surge.

So remember I took you to that notice response.---Yes, I saw that.

Yes, and so the university was saying they never gave their formal approval but some staff believed that there was approval?---Yes.

So it's likely this came from you, didn't it, that Mr McCreadie's comment here, it's likely that it came from you saying that University of Sydney had

given approval to use SIG as the nominated provider under the contract to pick up additional work.---He, he would have known that. He was involved in their tender.

But he's sitting down with you.---He's not sitting down with me.

No, he's sitting down with you on his email to prepare this response. Yes?
---No.

10 You don't agree?---I just, I can't recall what, I just can't recall what, if any, input I would have had.

And if he's sitting down with you to prepare that response, let's just think about that for a moment, then he's suggesting something which – I withdraw that. You should have been alert that this issue of overtime costs that affected SNP were being managed by pushing overtime through SNP, sorry, SIG.---Yeah, no, I - - -

20 Do you accept that?---Yes, but I'm not saying I was privy to, it didn't come back in the official documentation, any of that.

And then just let's think back to your emails to Zoe Davis where you're spruiking the benefits of a \$32.57 per hour flat rate. You've now got a report from KPMG saying there's potentially mechanisms in place to avoid paying overtime allowances.

MR COLEMAN: That's not what it says.

30 THE WITNESS: That's not the formal response that came back.

MR ENGLISH: We can read it out again, you know. I take my friend's point. Just bear with me. You're told in this report that practices exist to circumvent payment of overtime allowance to SNP staff resulting in non-compliance to the EBA, right.---Yeah.

And I've taken you through some of these concerns. You can see them above in A. I mean, so I just want to put this to you, right. You agree you've said to Zoe Davis that a flat rate applicable at all times is a benefit to the university.---Yes.

40 You've learnt from a KPMG report that there's a concern that overtime is not being paid to staff, and that's a quote from page 4 of the report, subparagraph (a) under 1.1.---Yes, yeah.

And then according to Mr McCreadie you're working on a response to this issue with him and did you understand that to manage its overtime costs with the approval of the University of Sydney SIG was used as the nominated provider under the contract to pick up additional works?---The

last part was everyone's understanding that SIG was used. I don't recall sitting there with him and typing this, the front-end of this documentation. But certainly SIG, I know the university are saying it wasn't but it was everybody's understanding in that panel that SIG were their provider.

And you've listened to the live stream of this inquiry, at least parts of it, correct?---Yes.

10 Have you heard the evidence about Tommy Sirour's practices at SIG?---No, no.

The fact that he was paying guards in cash. Are you aware of that?---He was paying guards in cash?

Yes. You didn't hear that part?---I'm not sure. I don't think so but I'm not sure.

20 Did you hear the part that he had a scheme in place to avoid paying payroll tax, GST, workers compensation premiums and employee entitlements?
---No.

Did you hear that part?---No.

Did you hear the part that he was offering that scheme for a fee to other guard forces in New South Wales?---No.

30 And do you accept, the matters I just brought to your attention, there's a massive red flag in your eyes that should have been beaming about this flat rate because it wasn't sustainable. Do you accept that?---No.

What, never occurred to you that maybe this flat rate is facilitating practices to circumvent the payment of overtime allowances?---No.

So if we keep going on the attachment of Exhibit 90, bottom of the page. B, you can see working beyond hours/days specified in the EBA as per clause 12 and it says no employee shall be required to work 12 hour shifts on more than five consecutive days. See that?---Yes.

40 However, for three out of eight staff we noted instances where staff were working more than five days a week consecutively on 12 hour shifts resulting in non-compliance to the EBA.---Yes.

Now, did you discuss those matters with Mr McCreadie?---I can't recall specifically. I can't recall.

And you understand, don't you, that working 12 hour shifts on more than five consecutive days could pose a risk in terms of fatigue issues on campus?---More than five did you say?

Yes.---Yeah, I'd agree with that.

It could affect student safety and well-being on the campus?---Possibly, yeah.

10 And what would you say if you were to learn that bus runs were being undertaken at Sydney University, not necessarily at the Camperdown Campus but at some of the other campuses, by guards that were working in breach of fatigue prevention limits?---Yeah, well, they shouldn't have been.

It's concerning, isn't it?---Yes.

If we go over the page. You see on a review or on review of sign-in/sign-out records?---On review of sign-in, yes.

20 Where you also noted that one security guard SIG had worked for 15 days in a row without any breaks. The number of hours worked per shift varied from four to 13. Do you see that?---The number of shifts varied from 4 hours, is it, to, the shift varied from four hours to 13. Yes.

And you can see Mr McCreadie's response, "DM, this one is a concern. I'll go over the records to identify who it was and see what break they had after that period and what I can do to prevent it from happening again." Do you see that?---Yes.

Do you recall discussing that issue with Mr McCreadie?---Not at this time. Not when he's doing the response but it was obviously an issue.

30 And it's an SIG guard so did you do anything to your recollection to ask for an assurance from SIG that it wasn't rostering guards on in breach of fatigue prevention limits?---It's an SNP responsibility. They are their subcontractor.

That might be so but he university has got an interest, does it not, in operating in an environment where ensuring that contractors that are engaged by the university are complying with relevant regulations and awards.---Yes.

40 So it's not really sufficient just to say that's an SNP issue. Wasn't it an issue that affected the university?---It would have affected the university. The final report that came back, the final report that came back I thought there was an issue around how they were, how they were addressing it with SIG from SNP, the final report.

So do you know if the university did anything to address this concern involving a guard from SIG working 15 days in a row, not just saying we left it up to SNP, but if the university did anything?---They would have

relied on the contractor to respond formally first which they did. I can't exactly remember what that response was but I, I can't recall, I can't recall
- - -

Well, the response was the - - -?--- - - - anything else singularly.

10 The response was the letter that was written to you, Darlene's letter.---Yes, yes. So I'm just not sure what the response was under the issue there. I thought they were going to take up that issue and, with SIG. There was certainly some action point on it.

Well, if we can bring up Exhibit 71, page 286. You can see there in that letter to you of 23 August in the paragraph above the bolding towards the bottom of the page.---Yes.

“During the audit a single staff member from SIG was identified as having worked 15 days without a full day's break.”---Yes.

20 It says, “This has been brought to the attention of SIG and corrective action to the future has been taken.”---Yeah.

Other than that reassurance do you know if the university did anything to inquire into that and ensure that it didn't happen again on campus?---There would have been discussions between myself and Mr McCreadie about that as the contract manager.

But you've got no direct recollection, is that fair?---That would have been ongoing.

30 If we could go back to the attachment of Exhibit 90 please, I think this is the third page.---Okay.

Can you go over again please, yes, that's it. Do you see in the bottom, in black “in addition to the above”?---Yes.

40 So this is under 1.2 of KPMG's observations and it's noted as an issue of concern, “We also noted 30 staff who had signed in and out of the attendance book for a period of January to March 2016 however were not in the staff listing.”---Staff listing, right.

“It's noted that all the staff had a valid security licence. SNP advised that the majority of these staff were on lock-up duty only and were not required to undertake the general duties training for security guards.” Do you see that, do you see that?---Yes.

Now, just the first sentence, “In addition to the above, 30 staff who had signed in and out of the attendance book for a period of January to March were not in the staff listing,” I know this is with hindsight but does that

speaking of ghosting to you?---No, no, because the staff listing would have just been your core, core contract staff, staff listing. If these people were doing the ad hoc guarding and unlocking, locking and unlocking, they would come in as ad hoc and just sign the actual sign in and out sheet. They may not be staff listed.

So the university didn't require every guard that came on campus to be on some sort of staff list?---No.

10 Okay.---No, sir.

With the benefit of hindsight, do you think it should have?---I guess the issue with this group is that they don't have to be inducted so they're coming and going all the time and they're a very large pool of guards, so it would be difficult to keep them on a staff list, but I take your point.

So then Mr McCreadie's response, "I think this is exaggerated, no names supplied." Did you recall him expressing that opinion to you at all?---Not to, "I think this is exaggerated, no name supplied," not exactly.

20

Okay. Then he says, "The auditor's version of a security officer is anyone that steps on campus and then the distinction is made which you alluded to that the university views what role they are employed for on the contract, I think."---Yes.

Okay. If that can be taken down please. Now, I just want to ask, you were disciplined at one stage for interfering with a disciplinary investigation in respect of a locksmith who was under investigation at the university?---Yes.

30 Can you tell the Commissioner what happened there please?---I think it was a master locksmith of some 20 years' standing, Commissioner, at the university and he during some lunch breaks, he had a small family, he was doing some Airtasker jobs it would appear, locally, fix a lock. The materials in the car, in the locksmith vehicles are his. The vehicle is a university car and I guess that there, he was reported for a number of breaches, I just can't exactly remember how many or what the value of those breaches were, I don't think there were, he made an awful lot of money in a period of time, over a 12 month time perhaps. My part in the, my part in that I was counselled for, so I'm also the, was his senior in terms
40 of filling both roles at that time, and I assisted him in a welfare check and also in drafting his response to the university, just sort of giving him some guidance around that as a welfare check I think because I can't a hundred per cent remember. I was, I was spoken to in relation to that, I thought I was actually his welfare officer, which I was, and there was a suggestion that I should not, I should have had the university's interest first and not assisted him in at least drafting a response I think, back. I think that's the sort of round version and I may have disclosed it to another third party but, and try to reassure him that it didn't seem to be a position where he would

lose his job, that's the reassurance. He was a person of some 20 years' standing at the university with a young family. So I was asked to provide a statement to that, which I did. I apparently, obviously technically breached something and I gave a three or four page dissertation back to the university in my response.

All right.

10 THE COMMISSIONER: When you say you carried out a welfare check, you use that expression in relation to Mr Lu as well, what do you actually mean, a welfare check?---Well, you're checking on their actual welfare. This is a fella of 20 years and all of a sudden he's been stood down, so I went out to where he lived, near where he lived, met him at a coffee shop, checked in on his welfare, is he okay, is he dealing with the issue okay. Just to support, support I guess as a senior staff.

I think with Mr Lu he had a cold didn't he, or something like that?---I don't know his, I didn't actually ask his ailment.

20 You said a moment ago that you were this locksmith's welfare officer.---I'm the senior, I'm in a position of management so he falls under the team that I was sort of relieving in the interim - - -

Does that make you his welfare officer does it?---Part of management role is to provide some welfare to staff. Did I couch that, reasonably - - -

30 MR ENGLISH: Sure. So I think your response, in addition to the welfare check, was that you assisted him with providing a response to the university and you checked on his welfare.---Yes, I mentioned that, yes.

Is that what you did to Mr Lu, you assisted him with the response he was to give to the university and checked on his welfare when you saw him in Broadway?---No.

Nothing similar there?---No.

So this locksmith was doing jobs on the side for Airtasker, is that right? ---Yes.

40 You were his supervisor, is that right?---No.

What was the - - -?---Mr Tamasauskas would have been his immediate supervisor, the locksmith fell under that role security/electronics. I was acting a course in those two positions and the overall team management, I had a role in managing him from that perspective.

What advice did you give to the locksmith in terms to his response to the university?---It was more grammar and structure from memory, around his

report. The fact that he had been there a number of years, twenty-odd years, the reasons why he did it, I think it was that, my sort of involvement.

THE COMMISSIONER: He wasn't a direct report to you?---No, Commissioner.

You had some involvement because you were acting in two positions?---So I was the unit manager, remember, across this time. Mr Andrews had left and the interim measure of me standing in.

10

I can't now precisely recall your evidence, but at least at some stage yesterday I think you resisted the proposition that you were acting.---Well, no I was reluctantly acting, I was doing the job, I was doing half the job as best I could. I was doing the job as best I could, I was doing both jobs as best I could.

Sorry, Mr English.

MR ENGLISH: Not all, Commissioner. So he was doing Airtasker roles. Did you have a discussion with him – were you aware of that before the disciplinary proceedings commenced, that he was performing the Airtasker roles?---No.

You're aware that or are you aware of an allegation that you had colluded with the locksmith in terms of his response to the university?---Colluded?

Yes. I'm saying more than just grammar and spelling?---No, I did give him some structure.

30 What, paragraph spacing or something?---No, yeah, outline of how we should at least put his response.

So you helped structure his argument as to why he should still be an employee on campus?---He had those arguments. I just helped him structure it.

And did you at any time say, "Well, you might have had a conflict of interest here. Let's go have a look at your conflicts register"? Did you do anything like that?---No.

40

Now, on the issues of conflicts, you're aware that Mr McCreadie and Mr Balicevac were doing line marking at the university, line marking tasks? ---They were doing some, some small tasks.

Well, what's your knowledge of that?---Sequence, I just can't recall times or dates, but they were working with a qualified painter, just can't remember who he was, but it was working with a qualified painter to do small jobs on the university with SNP approval.

And when you say working with a small painter - - -?---No, no, small jobs with a qualified - - -

They were working with a, so your understanding that Mr McCreadie and Mr Balicevac were working with a qualified painter to do small jobs at the university, and that SNP had approved that procedure.--- Yes.

10 Were you aware at a subsequent point in time the qualified painter stopped doing those tasks at the university and Mr Balicevac and Mr McCreadie did them themselves with the approval of SNP?---Not a hundred per cent sure on that. I thought it was with a qualified painter.

20 Did you inquire how many hours this was requiring of them to perform these tasks ever?---No, they would, they would indicate how many jobs that they were doing, those smaller jobs. They would, they would say we're doing two bays this morning or a small bay or a disabled bay. So there was discussion that they were doing some small jobs, and they were usually weekends or, or perhaps prior to starting to shift when there are no vehicles around.

Did it raise any concerns in your mind as to fatigue issues as between Mr McCreadie and Mr Balicevac or as to - - -?---Well, they're only doing small jobs, so a small, a small bay. It was more the timing of the bay, when there are no vehicles there, than doing a lot of, a lot of work. They were only told to do small jobs.

30 Did you ever suggest to Mr McCreadie and Mr Balicevac as the manager and the 2IC of security operations on behalf of SNP that the performance of those tasks could create a conflict of interest?---They had SNP approval.

So is the answer no?---No.

Who else at the university knew that Mr Balicevac and Mr McCreadie were performing these line-marking tasks?---Both line managers above me were aware of, of that fact.

40 Mr Sullivan, and who's the next one up?---No, so Mr Sullivan when he was there and, yeah, so Mr Sullivan when he was there.

And you said the next - - -?---Divisional, divisional manager.

- - - the next one up. Was there someone else?---No, no, no. I'm thinking again, he's, he's (not transcribable) Mr Sullivan.

Did you have a discussion with Mr McCreadie in relation to the issue of line marking to see if he could find someone who would provide that service at a cheaper rate?---I'm not too sure on the exact rate, but it was supposed to be

an interim measure until they, they had difficulties getting small jobs done. They had a larger contractor for the larger jobs, the roadways and the car parks. It was small one-off jobs, which really needed to keep going, that he was engaged in. And the understanding was until they found a small contractor to do those.

10 Well, did you ask Mr McCreadie to see if he could find someone to do those smaller painting jobs at a cheaper rate?---I don't know about a cheap, the rate is an SNP, it's an SNP work order. I was talking about actually not
20 doing it at all. So when they found a, a small subcontractor, then they shouldn't be doing it.

If we can go to Exhibit 37, page 30, please. This is an email chain about some budgeting matters. If we go over the page, it's an email from a Ms Haerewa. She was a contracts and commercial manager and she's setting out some budgetary matters and a need for an additional 700,000 at the university and she's seeking some comment from you and I think what happens is that you, in an email of 25 August, 2016 at 1.07, provide some
20 comments but you do it by reference to her bullet points. Can you see that in red, do you see that?---Okay, yes, yes.

And if we go over to page 32, "Move to major line marking into next year". ---So this is 2016, you said, to '17 was it? '16.

Yes.---'16, sorry, yep.

30 So it's the case the university would do line marking upgrades for two years and then do a major repaint in the third year, is that right?---Yeah. Attempt to do a major, a major repaint.

So you say there, talking about parking revenue affected if the lines aren't clear enough.---It was, it was a dot point, yes.

And then see at the middle of the page, "Having said that, I have asked Daryl to see if another subcontractor could deal with some of the smaller painting jobs at a cheaper rate."---Okay, so, oh, okay, yep, yes. Yeah, some of the smaller painting jobs at a cheaper rate, yep.

40 And then can I ask you is that when he suggested that he could get another painted to do it, a qualified painter and he could do some of the work himself?---I'm not too sure if it was, it was then. I'm not too sure if it was August, 2016.

And do you know whether, you said before, I think the rate was set by SNP. Do you know whether this proposal that ultimately came to fruition, whereby Daryl and Emir painted with another qualified painter, whether any cheaper rate was offered to the university for their services, as opposed to the incumbent?---No.

So to your knowledge, it was merely a change in supplier?---What do you mean there, sorry?

Well, you went from the incumbent to the qualified painter and Mr Balicevac and Mr McCreadie but there no change in price, so just a change in supplier only?---Well that, that's, that's what it should have been but I'm not sure it was in this time period. So I'm not sure when they started, that's what I'm saying.

10

And I just ask you to assume – no, I withdraw that. Do you say that he qualified painter was an essential part of that proposition, that McCreadie and Balicevac could only do it if they had a qualified painter with them? ---That was my understanding.

Why, for licences and the like?---Well, no, that, that a qualified painter overlooking.

20

And so what would you say, you said you didn't know, but now you do know, at least you can assume from me, that Balicevac and McCreadie, at a later stage, did that painting work by themselves without any trade licences. Do you say that's acceptable from your understanding from the university's view point?---Were they still supervised, though? The, the - - -

30

No. Just those two with no qualified painter supervising them.---For a small job, you could do it because it is around the, the quality of the paint. If it's a small bay, we have sensors, all you're doing is painting a number and refreshing one line, so it's not critical but if you start to do other jobs, you know, but your crossings and so, and so forth, then they should be under the guidance of a qualified painter.

And what about a lack of trade licences and the like. Is that of any concern to you and/or the university, to your understanding?---In terms of the smaller job, I'm not too sure but the larger job, if, if they would have been covered for, for their own worker's comp or, I'm not sure what they had but SNP, sorry, SNP should have been approving those, the documentation that they would have had.

40

Did line marking fall within your operational duties?---It was one of the work orders, yes.

So you're providing, I think, directional leadership on ethical issues and the like in relation to line marking, maybe at number of your position description?---Yes.

And so do you say discharged that function with respect to McCreadie and Balicevac's proposals in this regard?---Well, I wasn't aware that, the

proposals went to SNP. SNP approved those people doing the work, not the university.

But you were aware of it?---Aware they were doing the work but I thought under a qualified painter. That was the best I could, sir.

Is that a convenient time, Commissioner?

10 THE COMMISSIONER: Yes, certainly. Mr English, have you got any idea how close you'll go this afternoon?

MR ENGLISH: I think we might finish this witness today, come close to it at least.

THE COMMISSIONER: And can you just remind me of the Exhibit number of the witness's duty statement?

MR ENGLISH: This witness's, yes, I can, Commissioner.

20 THE COMMISSIONER: I do apologise. I should have made a note but I didn't.

MR ENGLISH: It's Exhibit 35, page 8.

THE COMMISSIONER: Thank you. We'll adjourn until 2.00.

LUNCHEON ADJOURNMENT

[1.01pm]