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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 FRIDAY 22 FEBRUARY, 2019

AT 9.30AM

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

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

THE COMMISSIONER: I think a section 22 notice was served on Mr Sirour and he agreed to accept it via email. Is Mr Dean here?

MR ENGLISH: I haven't seen him.

THE COMMISSIONER: No, he's not, okay, we'll deal with it later, thank you.

10 MR ENGLISH: I'm told the transcript for Mr Smith's compulsory examination is available now and available to tender. Is that something I can do now, Commissioner?

THE COMMISSIONER: All right. I'm happy for that to happen. Mr Mackay, I don't want that transcript to be shown to your client at the moment while he's giving evidence. Certain aspects of it, as I understand it, or parts of it, will be shown to him during the course of his evidence.

MR MACKAY: I understand.

20 THE COMMISSIONER: If you are proposing to examine him at the end of, as the last person standing, I'm quite happy for you to speak to him about any aspect of it before you do so and you can have that transcript now, but I just don't want it shown to him until he's finished.

MR MACKAY: I understand.

MR ENGLISH: Commissioner, I'll just push that I would like a five-minute adjournment. A couple of matters have arisen and I might have to take instructions unfortunately.

30 THE COMMISSIONER: That's fine, there's no problem with that, if you need more than five minutes that's fine too.

MR ENGLISH: Thank you. Well, Commissioner, I have a copy of that. It's in two parts, the morning session and the afternoon session of the transcript of Mr Smith's compulsory examination from Wednesday 8 August, 2018 I tender that. Do you wish a copy to be handed up, Commissioner?

40 THE COMMISSIONER: No, I'm fine thank you. We'll mark that Exhibit 98.

#EXH-98 – TRANSCRIPT OF COMPULSORY EXAMINATION OF DENNIS SMITH DATED 8 AUGUST 2018

MR ENGLISH: Mr Baine will distribute those transcripts Commissioner.

THE COMMISSIONER: Mr Dean's just arrived I think. Mr Dean, I understand that your client agreed to accept service of a section 22 notice via email.

MR DEAN: Yes.

THE COMMISSIONER: Is there anything to produce, on objection I assume?

10

MR DEAN: Yes, on objection I have a thumb drive of material to produce.

THE COMMISSIONER: Thank you. We might take that up.

MR DEAN: I apologise for being late, Commissioner.

THE COMMISSIONER: No, that's okay, no problem at all.

MR DEAN: I just might indicate that I might be able to assist Counsel
20 Assisting with materials that are perhaps more relevant than not.

MR ENGLISH: We'd be grateful for any assistance from Mr Dean, Commissioner.

MR DEAN: If I could approach.

THE COMMISSIONER: Do you want me to adjourn for 10 minutes?
Because if it relates to this current witness, I'd much prefer that Mr English
30 knows now than later.

MR DEAN: That might be suitable Commissioner.

THE COMMISSIONER: All right. I'll adjourn for 10 minutes.

SHORT ADJOURNMENT

[9.37AM]

THE COMMISSIONER: Mr English.

40

MR ENGLISH: We continue with Mr Smith, Commissioner.

THE COMMISSIONER: Thank you. Come forward Mr Smith. I'll have the oath administered again thanks.

THE COMMISSIONER: Take a seat.

MR ENGLISH: If Exhibit 36, page 330, can be brought on the screen, please. This is where we were up to yesterday, you recall, Mr Smith?---Yes, sir.

10 So this was the email that you prepared and sent to Mr McCreadie for comment before forwarding it on to Mr Roche of SNP?---That's right, yes.

Now, did you show this email to Mr Lu before forwarding it to Mr Smith?
---Sorry, you said Mr Lu to Mr Smith - - -

Sorry, did you forward, did you show it to Mr Lu before forwarding it to Mr McCreadie?---Frank Lu?

20 Frank Lu, yes.---I'm not sure if he was working or looking over my shoulder or I don't remember handing it to him or talking to him.

Well, do you have a recollection of him reviewing your email at any time before it was sent to Mr Roche?---No, not Frank Lu.

30 What about Mr Balicevac, did he – I withdraw that. Was he shown your email at any time before you sent it to Mr Roche?---I'm just trying to see what time I actually typed it. if it was a work day, he could have been at his desk, if it was a work day there. Thursday, 2.14. It could possibly be that he was at his desk next to me or one over but close by.

All right. And providing comment and feedback in relation to the email, was he, to your recollection?---Emir wouldn't be providing at his level any guidance to me writing to Mr Roche.

Well, I don't know if you answered the question. Do you recall whether Mr Balicevac gave you any feedback or comment in relation to this email before it went to Mr Roche?---Feedback or comment, I can't recall feedback or comment.

40 And you said, you mentioned about Mr Balicevac that he sits next to you and if he was at work that day. If Mr Lu was at work that day, might he have been shown the email and provided any feedback and comment to you before it was sent to Mr Roche?---I wouldn't have got feedback or comment, I wouldn't have thought, from Frank. But again, if he was on, it's an open office environment. People sort of walk around, stand near you, stand behind you.

Now, just looking at the contents of your email.---Yes.

Where you say, “I have an emerging issue apparently to arrive in my lap tomorrow,” what did you expect was coming into your lap on 13 April?---I think, I think this is, I think this is the suggestion that this is going to be placed in my lap tomorrow, the fact of official notification, I think. I think that’s what I’m thinking about. “Emerging issue tomorrow apparently to arrive on my lap. SNP are moving (not transcribable) subcontractor S International it appears for a few technical roster breaches.” I think that’s the issue, that I think I was getting official notification or something
10 tomorrow.

All right.---From SNP, expecting some sort of notification.

But you’d already been given notification of that by Mr Balicevac on 11 April, 2018.---Yeah, I mean official notification from, say, senior management at SNP is what I think I’m talking about there.

Is there any reason why you didn’t say, “I’m informed that SNP has made a decision to remove SIG as the subcontractor, effective 8 May, 2018”?---No,
20 I think, I think that’s just the way I’ve worded it. I’m trying, you know, just looking at how I’ve worded that first sentence, I think that’s what I’m referring to.

You make some key points and then identify some risks in the second set of bullet points.---Yes.

You say, “There has not been one breach of the KPIs for operations guarding at this site since the inception of the contract in September 2015.”
---Yes.
30

I think your evidence was in relation to that, that – just to be clear, this is in relation to KPI 5 and 6, is that right? And KPI 1.---All, all the operations for guard, all the KPIs for guarding. That’s operations I guess I was talking about there.

Your evidence yesterday at transcript page 785. KPI 5, you couldn’t meet it because Mr Ledford said, “We can’t generate the necessary data.” Do you recall that?---Yes.

40 So we couldn’t determine if it had actually been met.---Yes, there’s a difference between a breach and, and meeting it.

Well, and then you said for KPI 6, that putting the library to one side, it was difficult to measure whether the KPI in relation to the smaller 24-hour spaces had been met without the documentation from Mr Ledford.---Yes.

And in relation to KPI 1, you said that you were relying on your own observations plus the uncovered shift report provided by SNP.---Yes.

So do you say that KPIs 1, 5 and 6 were actually being properly measured from the period September 2015 up until the draft of this email on 12 April, 2018?---So from 2015 till August 2016, Mr Andrews was managing the KPIs. I don't recall him having a breach. And from '16 onwards, while I was relieving in both positions, those KPIs really were not necessarily breached because if we couldn't measure them, some of them, we didn't get to measure them, they weren't necessarily breached.

10 But you're asserting a positive proposition that there's been no breach, but the reality is you haven't been able to measure whether there was a breach, do you agree?---On some of them he would, he had not been able to measure, but it doesn't say there was a breach.

Why did you feel the need to make that statement in the circumstances where you didn't have sufficient data to determine whether there was a breach or not?---It really is across all those operations, all the operational KPIs, so it was just pretty much a statement there saying there hasn't been a breach, a financial breach, across those KPIs in operations since the
20 inception of the contract.

Well, you say that "This is a risk to me," and given there hasn't been a breach, isn't the risk to the university that the KPIs haven't been properly measured?---The, some of the KPIs you couldn't measure, some of the KPIs you could part-measure and some of the KPIs were redundant, so - - -

Well, do you say - - -?---But there wasn't a breach.

I'm sorry. Do you say that your statement in the first bullet point there is an
30 accurate statement?---Yeah, there hadn't been actually a breach of a KPI.

Third bullet point, "I do not personally know the owner of S International."---Yes.

Is that a truthful statement?---Yes.

On what - - -?---To me, "personally know them", I'd met him, I had met him on campus a couple of times but I, I mean, I don't have a personal relationship or friendship with S International.
40

But you don't say that. You use the word "know" as in you don't personally have any knowledge of him.---"Know" to me is know somebody well, know somebody. It's not knowledge.

Well, do you accept that a reasonable reader of this email might assume that you'd never met Mr Sirour from reading that part of the third bullet point?
---No, I would have thought Mr Roche in our conversations would have had

an understanding that I would have met, met Mr Sirour as a subcontractor at some stage.

Well, I just don't understand, in light of that evidence, why you'd make this statement that you do not personally know him if you understood that Mr Roche would have thought that he knew you'd met him.---It was just put in there and agree he needs to sort his rostering out, so it's kind of a double-barrel sentence. I don't really know the guy. He needs to sort out whatever the issues are of their WHS breach.

10

If I was to tell you that both Mr Lu and McCreadie have told this Commission on either oath or affirmation that they say you knew that Mr Lu was carrying out the rostering activities on SIG's behalf and you knew that prior to the execution of the warrants on 18 April, 2018, what would you say to that?---So that'd be correct. I, I, my first recollection that it was about, well, no, sorry, I'm not saying before the warrant, after the warrant, before I left, I went on sick leave, Frank stood on the wall and said to me, "I do the rosters for SIG," and he said, "I've been doing them for about eight years."

20

You pulled a face as in you were surprised to learn that. Is that - - -?---Well, that's my recollection. I hadn't heard him say, "I do rosters for SIG." If someone's going to say they told me four years ago in a side conversation, I don't know, but - - -

All right.--- - - - Frank tells me there on about my second-last day.

All right. In the office environment where you sat, did Mr Lu have a desk in that same section?---No. No. No, team leaders were in the control room, which was in a secure facility two rooms away from me.

30

And from the period from August 2016 to 12 April, 2018, do you say you never heard Mr Lu talking on a mobile phone about rostering?---No. Not that I recall.

40

What were you intending to convey in the fourth paragraph where you say, "There are issues, as you know, with Telstra side of the business and you do not want to add," in capitals, "to that noise going to the new director with the final year of contract being next year."---Sorry, could you just (not transcribable) for me there? Sorry, could you just show me where that was or - - -

That's the last bullet point.---Oh, sorry, the last bullet point, sorry. "There are issues, as you know, with the Telstra side of the business." We were having considerable issues with the Telstra, Telstra-SNP partnership, the electronic maintenance side of the business. They were having issues and did in fact have a financial breach in 2017, and I guess we were concentrating on trying to sort those issues out without then having to talk

around a whole operational collapse of subcontractors which were in key positions.

But why do you say you don't want to add to that noise? What, you didn't want to create a further problem for SNP at this time, is that what you're saying?---I think I didn't want to create a further problem for the university at that time. We were trying to deal with SNP, Telstra and now we were going to actually try and deal with a bigger problem, being an operational subcontractor going.

10

Wasn't the bigger problem what was alluded to you in the KPMG report in July of 2016, about the practices that were reported on pursuant to that review? Wasn't that a big problem that you saw at the time?---Out of all the recommendations or one or two?

Well, no, the whole report that you read in full. Didn't you see that there was big problems in that review?---The response from SNP covered off most of those issues and denied them. That went up the line. I was never asked about the report again from the university. No rectification plan.

20

Nothing ever came back.

Do you accept, it could be inferred that you're trying to, by this statement in this bullet point, perhaps be protective of SNP's contract with the university?---No. This, this whole report, this whole report was about an operational breakdown, a severe operational breakdown of guarding on the campus, which was going to be a risk to staff and students.

30

In the last paragraph you say, "I've not received an official email request to accede to the new supplier, but realistically for this site I don't want to get it and have to answer it in an official capacity and send it up the chain." Well, you'd already received that email informally from Mr Balicevac, right? ---Yeah, look, I said official email there.

Yes, I know but you'd already received it from Mr Balicevac.---He's not a, he's not an SNP executive, or, or management, senior management.

Do you think there's anything misleading in failing to disclose that you'd already seen that email?---Well, I don't know if it was going to be exactly the same email I was, I was getting.

40

If we can just go to Exhibit 36, page 340, and this is just so you can satisfy yourself that I think this email in the very same form was sent to Mr Roche. Do you see it there on the bottom of the page?---My, my, oh, no, not - - -

So we're looking at your draft.---Yes, sorry.

And so here's the email and it's sent at 12.24 on 12 April. Do you see that? ---Yes, yes.

And I think, I'm happy to be corrected if this is wrong, but I think it's in exactly the same form as your draft that we were just looking at on page 330. Is that your recollection? "Mr McCreadie seems fine, not confrontational, just factual." So it suggests that there probably wasn't a change, would you agree?---Yeah. Without, without sort of reading fully but, yes.

10 If we go back to page 330, please. And, Commissioner, I'm going to ask that Exhibit 80 be played and the transcript can come up after the call is played. Do you have a copy of that transcript, Commissioner?

THE COMMISSIONER: I think I do. What was the date?

MR ENGLISH: It's 12 April, 2018, at 14.51. So it's some half an hour after Mr McCreadie's email to Mr Smith and it's a conversation between Mr Smith and Mr McCreadie.

20 THE COMMISSIONER: Thank you.

AUDIO RECORDING PLAYED

[10.05am]

30 MR ENGLISH: Do you accept the broad proposition, Mr McCreadie, that this email suggests, sorry, Mr Smith, I'm sorry, this email suggests that you were colluding with Mr McCreadie to ensure that you never received that email which you'd already seen in an official form from SNP?---Sorry, can you just say that again?

Do you agree this email suggests that you were colluding with Mr McCreadie to ensure that the email from SNP, which you'd already seen, saying that Tommy's last day was 8 May, to ensure that you never received that official from SNP?---No. I, I, that wasn't the purpose of, that wasn't the purpose of that discussion. It's not about not getting the email.

40 What do you say the discussion is about?---Well, we've obviously had some discussion, the report went, the email went to Mr Roche and obviously we were just waiting for his response.

Is that really your honest evidence about what this conversation was about? ---Yes. It's, it's an operational necessity. It's gone to Mr Roche to make a decision, it's going to substantially affect the universities operations.

THE COMMISSIONER: But at this point in time, Mr Smith, the email hadn't gone to Mr Roche.

MR ENGLISH: No, I think it had, Commissioner.

THE COMMISSIONER: It had, had it?

MR ENGLISH: It had, yes. He just sent it.---Yeah, no, it had gone.

Well, let's look at page 1 of the transcript, please. Look at your comment about the middle of the page, "Yeah, nothing, so I sent that, so I mean if the line comes back and asking how I knew, we were just having a conversation today and that you indicated to me that I'd be getting an email tomorrow, you know, from you because you got to do it, don't you, the email, right?"
10 Okay, you see that? Is this you scrumming down with Mr McCreadie?
---No, no.

Well, it is, isn't it? Because what it is, it's you cooking up a story with Mr McCreadie and providing him with a response if the SNP line comes back to him and asks how he knew, and you just colluded with him - - -?---I think it's about how I - - -

- - - and suggested to him that he should say, "Just tell them that I had a
20 conversation with you today and you indicated to me that I'd be getting an email tomorrow."---I think, I think I'm reading that as how I knew.

You knew because you got an email from Mr Balicevac a couple of days before.---Yeah, but it's not, not in an official capacity.

THE COMMISSIONER: What difference does that make?---Well, it wasn't an official chain, chain of command there, Commissioner. It's come from a 2IC.

30 If you go two paragraphs down, you'll see you use the words, after telling him what he should do, "Yeah, so that's our line." What did you mean to convey by that?---Where is that one, sorry? I'm not sure. There's nothing sinister going on here. It was around keeping the operations going, me getting a response from Mr Roche.

MR ENGLISH: You're counselling Mr McCreadie to lie to his employer if the line comes back with the question you refer to in the middle of the page, are you not?---No. No.

40 What other explanation do you have?---I'm not asking him to lie. Maybe more about him not getting into actual strife as to how I knew about. There's no, certainly no suggestion of lying there.

THE COMMISSIONER: Well, he is going to lie, isn't he? If he's asked about it, you're telling him what to say, and what you're telling him to say is not true.---Certainly not meant to be the intent, Commissioner.

MR ENGLISH: Well, just to remind you, if we can go to Exhibit 36, page 324. Here's the email which Mr Balicevac forwards to you at 7.41, and then Mr McCreadie responds by saying you're going to scrum down later. Then if we go to page 328.---328.

10 It seems you did meet and at some stage prior to 14.21 on 11 April, it was decided that you'd call Mr Roche. And then if we go over the page to 329, you had this discussion with Mr McCreadie about the capabilities of the supposed subcontractor that was to take over from SIG. And if we go to
page 330, you tell Mr Roche you have an emerging issue "apparently to
arrive in my lap tomorrow", which I think you've agreed you already were
aware through informal channels had arrived in your lap.---It could have
been changed, though. It could have been a different document or some
alterations to it. I mean, what I was given may not still what I was going to
get.

20 And then if we go back to Exhibit 80. You're telling Mr McCreadie that if the line comes back and asks how you knew, and that can only be in relation to the decision to remove SIG as a contractor, as a subcontractor. You say,
"We were just having a conversation today," being 12 April, "and you
indicated to me I'd be getting an email tomorrow." Now, that's a fiction,
isn't it?---Well, I was still waiting for the email. It could, it could have been
different.

30 If we go down to the bottom of the page, it goes on, McCreadie, "Yeah, Phil knows that I'm, was having a discussion first, but you know, you say, yeah, good, part of that discussion is, you know, I have to send you this email." Now, that's the email that you'd already seen, right?---Well, I, I'm not sure it was. "Part of the discussion is, you know, I have to send you, I have to
send you this email."

And then you say, "Yeah, no, that's fine. And then in that, in my response, I only, it only, it was clear enough. I don't care about other sites. It's only University of Sydney I need him to say, isn't it?"---Yeah, indeed. I didn't give a rat's about S International anywhere else. We just needed the guards on this site to stay. So if he had, if he had other, if he had other business elsewhere, I didn't care if SNP were tied to them, but this site is where we needed them to stay.

40 But what possible standing or interest would you have in any of SIG's business at any other site other than Sydney University?---Well, I wouldn't. It was just a statement that I didn't, I didn't care about if SNP wanted to remove him from other, other, if they had a bank or if they were doing something else. The emphasis here was on the operational needs of the University of Sydney. That's what I'm talking about.

Well, your email, which you prepared – if we can just go back to page 330 of Exhibit 36 – "Have an emerging issue apparently to arrive in my lap

tomorrow. SNP are apparently moving on the subcontractor S International. On the surface it appears for a few technical roster breaches for this site.” Well, that’s Sydney Uni, right?---Yeah, yes, yes, breaches of the site.

So, I mean, you could only address concerns in relation to Sydney University, right?---Yes, it was just a broad statement of the, I didn’t care about SNP doing what they wanted to elsewhere. We just kind of needed them on this site, but with the proviso he’s got to fix those issues that were raised, which I covered down in the dot points.

10

But you don’t just say that. You ask Mr McCreadie to confirm that that’s right.---That what’s right, sorry?

That you only need to speak about Sydney University.---Where? Where - - -

20

See what I – so if we go back to, sorry, Exhibit 80, page 1. “In my response it was clear enough I don’t care about other sites. It’s only University of Sydney I need him to say, isn’t it?” So you need Tom to say that this exception’s only going to be in relation to University of Sydney and you’re asking McCreadie to confirm that, do you agree?---Yeah (not transcribable) the back end of the question, but I know what I’ve said and I know how I’ve phrased it was particularly the University of Sydney interests - - -

30

Why did you need McCreadie’s confirmation of that understanding?--- Again, nothing, nothing in the sentence. It’s just University of Sydney I need him to say. It’s actually probably “stay”, it’s not, I’m not sure I’ve said “say” or “stay” but, yeah, okay. “University of Sydney I need him to stay.”

Well, if we go to page 2, please. Just, Commissioner, I think where the second entry for Mr Smith is, it says, “I’ve got billies coming on line.” I think that’s actually “buildings”, a mistranscription. Would you agree, Mr Smith?---“Got billies”, oh, yes, yes - - -

“Buildings”.---Major buildings coming online.

40

Yes, “buildings” I think is the word you used.---Yeah, major buildings coming online.

If we go down to point 6 of the page, the long part of the call attributed to you, you say, second line, “Obviously he's going to make a call and sort a few things out, but this is just a, you know, an email between you and I. I've got a relationship with him over the years that I've built up. What was the nature of your relationship with Mr Roche that you'd built up?---He, Mr Roche would come on-site two, maybe three times a year and discuss face-to-face the issues with the contract on the University of Sydney, and they were pretty frank discussions, so we, we gave him the warts-and-all version

because when you've got the CEO, you don't let him go without giving warts-and-all. He gave us some fairly frank discussions back and in that time, we got some additional uniforms, we had a few logistical issues, we had, you know, on-the-ground issues that we raised with him and, and he fixed so I was fairly honest with him all the time. I, I gave him a warts-and-all approach and I think he appreciated that and, and as the CEO, we had a, a good relationship.

10 Have you ever been with Mr Roche in a social setting?---Yes.

What was that, can you tell the Commissioner, please?---The, the awards, the security industry awards presentation in Canberra, so Mr Roche was obviously there representing SNP. I think he might even be in the committee of, of that, of that group and that's the only time I've seen him in a social setting.

20 So how have you built up your relationship with him?---Over those visits and phone calls that he may have made between those two or three times a year.

Have you received any gifts to benefits from Mr Roche?---No, not that I've, no, not that, not on those visits or anything.

Well, at any time?---No. Not that I remember.

Now, in your relationship with Mr Roche, he was the client – sorry, I withdraw that. He represented the contractor and you represented the client, correct?---Oh, yes.

30 You'd have no reason to call him boss, would you?---Well, it's a figure of mine that I, I, I call everybody, boss or sir. It's (not transcribable) it's just, I've done it since I was 18 and in the profession I was in, it's just, it's just a figure of speech for me.

Well, in the correspondence that we've seen today, haven't seen you refer to anyone as boss or sir.---Is it in the conversation though, is it?

Well, no, not in this conversation.---Oh, sorry. I'm thinking - - -

40 But you've seen come conversations between yourself and Mr Balicevac. There's no boss or sir in there. There's only a boss from him to you. ---Sorry, from who?

From Mr Balicevac. He calls you boss, you certainly don't call him boss or sir.---No, no, no. I, I call, I'm referring to Mr Roche, am I, as boss, is that what you're saying?

Well, there's no reference to boss here. I'm asking you, would you refer to him as boss, Mr Roche?---Yeah, yeah, I probably would. Yeah, in a general
- - -

Why?---It's just a general term that I use, sir or boss or, even if he's not my boss, sometimes, you know, he's a head of an organisation, he is a boss, that's how I refer to people.

10 But you agree boss suggests that you worked beneath him?---No. Not, not in my, not the way I use it.

The last thread of page 2, "Whatever he's worked, I didn't want to go into too much detail about it. He'll know who it is. He's work health and safety bloke. He'll start asking the questions and they can sort it out." What did you mean by that?---Well, obviously they've had some conversations and he would have to obviously talk to his health and safety fellow, make sure whatever the issues raised had a plan to be fixed and, and try and sort it out together and keeping the guards on-site.

20 When you say work health and safety bloke, what do you- - -?---I think it was SNP, I, SNP health and safety I'm talking about.

Well, did you have concerns about work health and safety matters on-site in relation to guarding services?---No. I think this fellow has raised, this, this fellow had raised the issue of, of the rostering practice there, wasn't he? Didn't this fellow raise something? This is the fellow that raised the issue around why allegedly they were going to be removed.

30 Well, I've shown you the email that you received informally but if we can just draw your attention to your second entry or third entry rather on this page. It says, "Yeah, anyway, I didn't want to receive this email." I think that actually says – I withdraw that. What you can hear is, "I don't want to receive this email." Would you agree with that?---Yep.

And then you laugh. But you hadn't received it by that stage, well, at least officially.---Officially, yeah, it could, it could be along those lines.

40 Yes. And then McCreadie says, "Yeah, don't want to but, all right, see what happens." So I asked you earlier, do you agree that this call suggests that you and McCreadie colluded to ensure that this email didn't reach you officially and just focussing on that passage on page 3 around the middle, do you still say that it doesn't support that suggestion?---No. That's, that is just me sounding off there, that I, I hope I don't receive the email from Mr Roche after he reads that and we have a conversation.

Now, if we can go page 332, please of Exhibit 36. So you see Mr Tansey says on 10 April, 2018, "Hello Daryl. Thanks for taking my call earlier and

following up on coffee and cake conversation with Dennis tomorrow.” Do you know what that’s about, a coffee and cake conversation with Dennis? ---So I think Mr Tansey is Daryl’s boss and he would come on-site occasionally and, again, the next level of management and just talk through those issues that Mr Roche would, you know, twice a year or so.

And then you can see that there’s an email from Mr Walizada at SNP saying that, “Due to urgent unforeseen business priorities, can I request you to please hold on the changeover of subcontractors for Sydney Uni only?”
10 ---Yep.

And then Mr McCreadie says, “Thanks for the heads. I had mentioned the need for change to Dennis on Wednesday the 11th.” Do you see that?---Oh, sorry, at the top. So who’s that from?

That's from Mr McCreadie, it's not to you.---Oh, right. Oh, right, okay.

It’s to people at SNP Security. He said, “I had mentioned the need for change to Dennis Smith on Wednesday the 11th and left the ball in his court to advise us on the university’s position. Just so you are aware, I don’t have
20 anything back from USYD.” Can you see that?---Yeah. Yes.

Now, when you scrum down with Dennis and Emir on Wednesday the 11th, did he mention, that is, did Daryl mention the need for change at the university in relation to SIG?---I don't remember the, I don't remember the exact detail of that, your words scrum down but that meeting - - -

Well no, they’re his words, scrum down.---Oh, sorry, sorry but no. No, I, I don't exactly remember the, the details.
30

And it goes on to say, “And left the ball in his court to advise us on the university’s position.” Well, that’s not a true statement, is it?---So this is Daryl to someone, is it? No, he did, he did have a look, he did see the draft, yeah.

To senior management at SNP Security. Well he provided feedback and comment in relation to your draft, right?---Yes.

And so where he says, “Just so you’re aware, I don’t have anything back from USYD?”---The timeline there, though, that's Wednesday the 11th.
40 When did that draft, well, not the draft, when did the letter go, was it after that?

It went on the 12th at around, I'll just tell you exactly.---So can I just say on that actual, on that document, so the document that went to Mr Roche, I didn’t author on my own volition. That was Mr Hardman. I had a discussion with Mr Hardman, the unit manager. He, he was here by then and he actually, after discussing with him what the problems would be if

SIG were taken off-site, we sat down and he then approved me to author this document to go up to Mr Roche. So it's not something I sat down and created in my own head. I was actually told to write the document by the unit manager. It's just an important issue, I think.

Well, this Commission is unaware of any correspondence that would - - -?
---There's no correspondence. We, we met and I, he, he told me to go and write the report.

10 The email to Mr Roche, did he?---Yes.

And did he – well, you didn't forward it to him, as far as we're aware, for comment or feedback, did you?---Mr Hardman.

Yes, Mr - - -?---I can't actually recall if he did but, so - - -

The evidence suggests the only people you forwarded to for comment and feedback were certainly Mr McCreadie, perhaps Mr Balicevac, well,
probably Mr Balicevac and perhaps Mr Lu.---Yeah, no, we would have had
20 a conversation around the contents. He may have seen it, he may, he may have even been standing behind me, but the approval to send this email and the document came from Mr Hardman.

THE COMMISSIONER: Wasn't there something at the end of the email, Mr English, referring to sending it up the line. I mean, my impression was that you were telling Mr Roche that the status quo had to be preserved otherwise you'd let people know up the line.

30 MR ENGLISH: That's right. Perhaps we can go to Exhibit 36, page 340.

THE COMMISSIONER: That very much suggests that you didn't speak to Mr Hardman about it.

MR ENGLISH: And over to the next page on 341, and I think it's the penultimate paragraph you're referring to, Commissioner.---So up the line to me there is higher than Mr Hardman. We're talking the, the executive, we're talking the CIS executive, Mr Robinson, the new divisional manager or the operations manager.

40 THE COMMISSIONER: But you wouldn't be reporting to Mr Robinson. You'd be reporting to Mr Hardman.---That's correct. That's what I meant about up the line. But Mr Hardman and I, we spoke for about 30 minutes before I put pen to paper at least.

MR ENGLISH: So what did you tell Mr Hardman? I mean, here you are saying in your email that you're expecting an issue to arrive in your lap tomorrow. Is that what you told Mr Hardman?---Mr Hardman was aware that SIG were (not transcribable) pull out, that SNP were going to pull out,

and we went through, we actually wrote down some dot points on, on a board together about what that was going to look like, so we actually had a formal meeting about it, Mr Hardman and myself, and I went and did the email, and it was sent. So certainly we met and he requested I go and do it, do the email to Mr Roche.

THE COMMISSIONER: But you would have sent a copy to him, surely.
---Yeah, I don't know if we did, Commissioner, but certainly the meeting happened and I would have told him that it went and the result.

10

I take it, Mr English, that we don't, as far as you're aware, we don't have a record of any emails sending a copy of this to Mr Hardman?

MR ENGLISH: No, we don't I'm instructed, and I certainly haven't seen one. And would you then have forwarded Mr Roche's response to you on to Mr Hardman, wouldn't you?---I would have told him. I not necessarily would have forwarded it, but I would have spoken to him and said that at this stage it's, it's on hold. He saw the risks as much as me, probably more.

20 THE COMMISSIONER: But presumably Mr Hardman, if he was doing his job, he was told about this email and he got a copy of it, he'd send it up the line.---Yes, well, I, I think, Commissioner, that I was across the operational issues. It was in my ball of responsibilities, so - - -

Well, then you had no need to speak to Mr Hardman at all.---Oh, he's the line manager, you had to at least tell him, and got approval for, from him to, to actually put the email together and send it.

30 And, I mean, it's a significant matter. If he was doing his job, he'd have to pass it up the line, and defeat the very thing that you were saying you weren't going to do in your email to Mr Roche.---He may well have spoken to him, Commissioner, I don't know, but we certainly spoke and met and went through the risks.

MR ENGLISH: So do you say that Mr Hardman was involved in the plan to have the email, which we see on page 340 and 341, sent to Mr Roche?
---Yes. My email, yeah, yes, to go and author an email and send it to Mr Roche.

40 And what guidance did he give you about the contents of that email?---He didn't. Basically I'm the operations manager (not transcribable) operational focus and I sent it.

Right. So go and send an email to Mr Roche on this issue, but he didn't ask to see it or vet it or even have a copy of it afterwards?---He may, he may have got a copy, I just don't know. But obviously it came back fairly quick. I would have updated him on what the situation was, that it was on hold.

And did he ask for a copy of your email after you'd sent it, for his records?
---I'm not sure. I'm not sure.

If we look at page 340, which is on the screen, you can see that Mr Roche responds on 15 April, saying, "Just to let you know, we have put a hold indefinitely on our plans to change contractors at the university. Look forward to catch up with you soon."---Yes.

10 And then you write, "Thanks, boss. With the noise going on around the sale of part of the business, and also some of the Telstra issues here, I need to keep, I need operations to be BAU." Is that "business as usual"?---Yes.

What's the noise going on around – I withdraw that. What's the noise going on around the sale of the part of the business?---"The noise going on around the sale of the part of the business." I thought it was around the, "and some of the Telstra issues", there was starting to be some talk around a sale to, of the business.

20 Of SNP?---Parts of SNP, yeah. Rumours. And we were definitely having trouble with the Telstra-SNP side of the business. We just needed to keep business as usual.

Isn't that a concern for Mr Roche, not for you, noise around the sale of a part of his business?---Oh, look, again, if we read that 50 times we could probably interpret it a number of different ways. It's a sentence I wrote in, in three minutes. "Some of the Telstra issues. Yeah, just need business as usual." The important bit, "need business as usual".

30 Well, the noise around the sale of that part of the business I took you through yesterday seems to have led you to assisting Tommy, Mr McCreddie and Mr Balicevac in trying to get locking and unlocking and Fisher Library tasks for, if not SIG, Trident. Do you recall that?---No, I, I wouldn't have been assisting to get those jobs. They would have, may have been able to compete like everybody else, but there was nothing specifically giving them jobs.

40 Do you remember the message I showed you yesterday that said, I think something, Dennis has got an account code, he's set up an account code?
---Yes, but I don't even know what that's about.

Well, just so you know, the Commission's making inquiries to find out if an account code was set up for SIG.---To see what that code is. Yeah.

Or for Triton with the university.---Yes.

In light of that information, is there anything further you might want to say about that issue?---No, not until I see it and see the circumstances around it. I just don't understand what the account code was for.

Just this email from Mr Roche to you on 15 April, is that the first time you found out that SNP's intention to remove SIG as the subcontractor at the university was to be put on hold?---So this email on the 16th, is it?

No, the 15th.---15th. Oh, sorry, the 15th. "Just to let you know, we put a hold indefinitely on our plans." I'm not sure if that's from the CEO, so that, whatever that one is, that's the one that counts. I don't know.

10 Well, I'll just ask you, is that the first time you found out that those plans were put on hold indefinitely?---I don't know.

Well, how else would you have found out?---That's, I don't know. That's, it's only a matter of, it's only a matter of a day or two, though, isn't it, when I sent the, when I sent it to the - - -

No, you sent it on the 12th, and three days later you received that email from Mr Roche.---Yeah. I'm not sure in those three days in the middle.

20 Well, if we can go to Exhibit 92, please. Page 18. See the bottom entry, 13th of the 4th, 2018, from you to Emir.---13th, is it?

13th of the 4th, from you to Emir at 3.54.42, "Tom put hold on swap subbie," looks like, "that is a start/Dazza going to tell Tommy, tell him act low." ---And that's the date of I got notification, wasn't it?

Yes.---Oh, okay. Tom put hold of subbie, yep, that's a start, Dazza's going to tell Tommy, Dazza going to tell Tommy, tell him act low. I think that was around, okay, don't do anything stupid, pulling the guards out but I,
30 it's, it's on hold. See, I mean, hold to me was, I'm not sure, I think in my head a hold was temporary there this is a start, hold.

THE COMMISSIONER: Aren't you suggesting that you were informed that, yes, it was on hold, sorry, that the contemplated removal of SIG, the subcontractor, had been put on hold. What did you mean though by the words, "That is a start"? A start to what?---That is a start. I, I am thinking on hold is a temporary hold, Commissioner, until I met him. There was a discussion there about Mr Roche and I meeting, and at that meeting I was certainly going to be exploring the issues that he had with the company,
40 what were the problems, we were going to go a little bit deeper in it, so it was, my line, he's put, he's put a hold on it but it may not be, you know, a hold for a continuum on a line, it just could be a hold. From my understanding, I thought that to be until he, until we met.

MR ENGLISH: So it seems like you've had a conversation with Mr Roche after you sent your email and prior to the 13th of the 4th, at 3.54.42, where he's told you that that intention was put on hold, would you agree?---I'm not sure if we did speak.

Well, how else, well, what's your other basis for that statement, "Tom put hold on swap subbie"?---Out, out of the email, isn't it?

No, but the email didn't come until two days later.---Oh, the 15th, it said. I thought it was sent on the 13th.

10 Yes, it was the 15th, this was the 13th. What's your basis for the first statement about Tom putting a hold on swap subbie?---I'm not sure I ever, I don't, I could stand corrected if we actually spoke, I don't think we spoke. I don't know if there was another message. I'm not too sure but I obviously was told from him some time in there if that's the 13th.

20 And then you say, "Tell Tommy to act low." Again, you said he was going to pull his guards out. I mean, it sounds like you've been issued with a threat by Tommy, that he was going to pull his guards off-site. I've asked you that a few times but you keep repeating it in your answers, do you agree?---Yeah. Well, unless it's come from, I remember Daryl saying that this fellow is hot-headed and he is just likely to take his guards and, and go. I mean, we just really couldn't have that at this moment.

Why are you going in to bat for a bloke who's hot-headed who's issuing threats?---Well, he's not issuing threats, it's more an operational necessity from my end. University is my dealings, my problem, so I need to fix the situation that we had and this the situation.

30 So I said to you why are you going in to bat for someone who's issuing threat. You deny he's issuing threats, I understand. Yeah, I don't think he's, well, not, not directly. Not issuing threats directly to me.

And what do you say about the proposition you're going in to bat for him? ---No, I'm not going in to bat for him. I'm going in to bat for the problem we have as an operational need at the university at this time. We had about five major buildings coming in in the next six months and with all the work that his team were doing, they were weird houred [sic] shifts, you're just not going to get a group to come in and do those weird houred [sic] shifts.

40 If we go over to page 19. You say to Mr Balicevac, "Not informed about my email," and then three seconds later, "to Tom." What's that about? ---Not informed about my email to Tom. I'm not sure.

You're saying that Tommy's not aware of your email to Tom Roche, is that it?---Not informed about, no, I, I don't know what, what I'm saying there to be honest with you. Not informed about email to Tom.

And then Mr Balicevac says 40 seconds later, "Okay, boss. I call now." He says, "Thank you," and then says, "Tell him wait, get official from Daryl." So that's tell Tommy, this is you saying tell Tommy to wait until he gets the

official news from Daryl, is that right?---It could be right. Tell, tell him to wait, get official.

So you've got the unofficial news that you're not going to move on the subbie and you don't want to pass that on to, to Tommy yet, you want to wait until he gets the official news from Daryl.---Yes.

Why? Why is that? Why do you want him to wait?---Well to get official, official notification.

10

Is it because you don't want to link yourself to this, you don't want Tommy to know that you've been making these representations on his behalf?---No, I'm making representations on the university's behalf but he, he would need to have been told at least.

Balicevac says, "Okay," and you say, "We can work on," it says, "o-t more then." What does that mean?---I'm not sure, o-t's, ot, I'm not sure. We can work on o-t more then.

20

Isn't it, "We can work on it more then"?---It could be it. We can work on it more then.

So you and Mr Balicevac working on saving Tommy?---No, it's not about saving, not about me and Emir saving Tommy. He's already, he's already had a stay, unofficially somehow, I've been told.

Well why do you need to work on it more then?---When it's official. It's been, it will come as an official line, official email or official letter.

30

But if you're just waiting for an official letter, what more is there to work on?---To get that. This is, this is before the official letter, isn't it, the 13th?

Yes. This is before that, that's right.---Yeah, so unofficial, unofficially, business as usual.

40

No, no, no. Let's just go up. Your message at 3.55.54, "Tell him wait, get official from Daryl." Balicevac says, "Okay," and you say, "We can work on it more then." So do you agree that what you're saying there is once the official response comes from Daryl, we can then work on it more.---It would be given to him as an official email. There's nothing else to work on, it's, it's his - - -

THE COMMISSIONER: Well, there is, isn't there?---What do you mean?

It's this, that on your evidence, all that was happening was a temporary reprieve. Can I suggest that what you were conveying there was that we, that is you and Emir and perhaps Tommy, would work on making that reprieved permanent.---It wouldn't have involved Tommy but it's, it was

certainly going to hopefully have him not taken off-site at that stage because there was a hold. What that hold meant, I didn't know from Mr Roche until we met - - -

What did you mean by the words, "We can work on it more than"?---I'm not too sure, Commissioner. We can work on it more then. I was only thinking, here now and not back at the time, I was only sort of thinking it's going to talk about the official notification that's on hold.

- 10 But what was it you were going to work on?---I don't think there's anything to work on, I don't think there was anything to work on.

Very well.---We can work, we can work on it more then. I, I'm not too sure what it is?

Well, they're your words.---I know that.

That's the problem. Yes, Mr English.

- 20 MR ENGLISH: It goes on. You say at 4.35.20, and I'm just trying to think if this is a 24 hour clock or not but you say at that time, "He happy, Tommy." What do you mean by that?---That's me to Emir, is it?

Yes. And then five seconds later you say, "Reprieve for while."---Reprieve for a while, yeah. So we would be happy. He's got, he's got basically a, a stay of execution that he's not going, his guards are staying.

Why do you care?---Because I need his guards.

- 30 Yes, but shouldn't you be happy, then, not him?---I'm happy. He's happy his guards are staying, and I'm happy because the university is going to get serviced.

Balicevac to you. "Thank you, boss." Balicevac again, "He is all over the moon." You understood that to be Tommy, he's all over the moon?---"He is all over the moon." Yeah, I guess that would be - - -

So he must have been happy, you took by that, Tommy?---He must have been happy, yeah.

- 40 And then you say over the page at 13 April, 2018 still, at 4.51.04, "Thanks for today/I even have other idea if they shunt SNP, keep, keep Tommy for some positions but I keep myself R." What does that mean?---That's me to him, is it?

That's you to Emir, yeah.---Is that a continuation?

If we go back.---Sorry.

So the previous email was at 4.37.32 and this one is at 4.51, so we're looking at 14 minutes later.---I'm not sure. Yeah, I don't know.

Well, let's break it up. What are you thanking Balicevac for today?---Could have been something unrelated, either work or something. It's the end of the day so it could have been something he did that day, I'm not sure. Like, in terms of work.

10 Well, your entire conversation's been about saving Tommy. You're saying that you'd be saying thanks for something else today notwithstanding that context?---Probably because he didn't - - -

Probably?--- - - - he didn't do anything. What would he have done?

Well, that's right. He didn't do anything.---No, he didn't do anything.

20 You did it all, didn't you?---He, I'm, I'm the boss. I'm responsible for it. He hasn't done anything. It could have been about work for the day, something on that day. It's the end of the day. It's 5 o'clock.

But you've linked it with your next - - -?---No, I put a slash there.

Yes, a slash. Well, a slash means it's related, would you agree, to the next - - -?---No, that's a break in my, when I - - -

Oh, is it?---Yeah, that's stop, like - - -

30 Oh, that's "stop, new paragraph", is it?---Sort of (not transcribable) stop. "Thanks for today" (not transcribable) "I even have other idea if they shunt him," ah, "Tommy for some positions but I keep myself." So I don't know what that's around.

40 Well, what was your idea to keep Tommy if the uni shunted SNP?---If they shunted SNP, keep Tommy for some positions, I'm not too sure, because his guards, I, I don't know why, they wouldn't have been shunting SNP, but I keep positions, could have been some positions there where those guards could have still been used because they cut across from organisation to organisation, so if SNP go, they might get ABC or MSS come in, some of them who don't have long service or close to long service. A lot will come across. So we could have used some of his either to come across or him then as a subbie to that group or something if those same team would stay.

THE COMMISSIONER: What was your idea?---I'm not sure what my idea was but I think that was my idea, Commissioner, to keep some of those good guards. If SNP went, you can cut across into another organisation or they can still sub perhaps to that new organisation. That's as much as I can recollect of what I would have been thinking.

Well, the words you used is “keep Tommy”.---He’s - - -

Presumably SIG.---Yeah, and so, yeah, for some positions, but they could, they could sub through another group if SNP went. They could sub to MSS or some of the guards could actually come across into that proposition. We tried to get a lot of his guards off Tommy into SNP, but the problem is Mr McCreadie had told me the roster was always full. Now we, now we know it was full of, sorry, full of SIG.

10

MR ENGLISH: You say, “I even have other idea if they shunt SNP, keep Tommy/for some positions.” It doesn’t seem like your slash there is indicative of a new proposition, you agree?---Some, Tommy, for some positions keep myself - - -

You said, “But I keep myself R.” Are you saying there “But I keep it to myself”?---I’m not sure. I probably would have been in my head if some, some scenario around positions or whoever got the new contract if SNP came in, sorry, SNP got, went out.

20

So you can’t assist the Commission any further about what your idea was if SNP were shunted about keeping Tommy?---No, it would have, it would have been in some of those positions that they were probably already filling, but I’m just not sure.

Now, if you see the next entry at 16.04, at 11.36.---Yes.

30

You say to Emir, “Sent you email/not forward on but can,” I think, “(not transcribable) speak with Tommy. Tick. Thumbs up.”.---Right. So that’s probably official confirmation to stay, is it? That’s after the 15th? Is that what I’m talking about?

Well, we’ll just come to that.---Right. I’m just trying to think.

So you’re saying to Emir don’t forward it on, that email, but you can speak with Tommy about it. Is that your understanding?---Yeah, I think that’s what I mean, whatever the email is.

40

If we go to Exhibit 36, page 342. Now, there’s the email from Mr Roche to you, which you forward on to Emir at 11.35.27.---Yes.

Which is like 35 seconds before you text him.---Oh, right, yeah.

With a tick, a box and a number of question marks. What did you mean by those icons?---Mmm. No idea. The tick is obviously that they’re, the tick is obviously that we’re staying. Just to let you know, let me read through upwards. I’ve sent that to, yeah, I, I don’t know what that cryptic is, even myself. The tick, obviously. I don’t know about the box. And what, what

are those things behind it? Do they, what are the triangle things? What, what are the boxes sort of behind it there? Are they a question mark, is it?

Yes, they're - - -?---Oh, right, I can't, couldn't see (not transcribable)

Well, aren't they, it's a, can we just increase the size? They're emojis, I think, a question mark.---Oh, okay, yeah. Fine, yeah. The tick, I don't know. I don't know. But the, yeah - - -

10 All right. It might mean that what you wrote didn't translate on the page properly, I'm told. So - - -?---All right.

You've put a tick at least.---Yes.

You've used some emojis, and some of the emojis you used might not have properly come through in the message.---Oh, okay.

20 And then, but you can see at the top of the page Emir forwards on your message, notwithstanding what you said to him, to Tommy, Lynn and rosters@sinternationalgroup. You see?---Oh, okay. After I told him not to?

Yes, well, you said "not forward on". "Sent you email, not forward on but can speak with Tommy."---Right. Okay. So he's forwarded it on.

Yes. "This email is between us. Please no one forward on." I wonder, in your text to Mr Balicevac, you had a tick and a thumbs up. Do you recall whether in your email to Mr Balicevac in the middle of the page, you put a tick and thumbs up?---Mmm, oh, I couldn't, wouldn't remember.

30 So then if we go back to page 20 of Exhibit 92. I think you correct yourself. Where you said "sleek", you correct that as "speak" six seconds later. Do you see that? 11.36.08?---"Speak", I think "speak", yeah, sorry.

So you typed "sleek" in a previous message and you've corrected it I think to "speak".---Oh, okay, right.

40 And then at 11.36.31, you say, "Confirm what I have done here/took them on." What does that mean?---Sounds like a bit of silly talk, really. Confirm what I have done, confirm, confirm, what I have done, took them on. It's probably a bit of fun.

Confirm what?---Confirm what I have done here, took them on. I'm not too sure. I think I'm talking about the, the, the, I think I'm talking about the SNP, fact that they're going to move, move him on, I think but I'm not sure. Unprofessional if that's what it was. Confirm what I have done here, took them on. But I think that's what I'm talking about.

And Balicevac writes back, "Best boss." You weren't his boss, right?---No but again, I think he called everybody boss.

So at around this time, you requested to be given some tickets for a trip by Tommy, didn't you?---Requested?

10 Yes. At around this time, when you were doing this work for Tommy, well you might not have requested but you had a discussion about being provided some sort of reward with a set of flight tickets for a trip, correct?---No, I never discussed a reward with Tommy or requested flight tickets from Tommy.

Did you have any discussion with anyone about being given flight tickets by Tommy or Emir at around this time?---We, we discussed yesterday the, the family and friends ticket - - -

That was in 2017.---Oh, 2017. Oh, sorry, 2018. 2018, I was never taking a trip in 2018.

20 THE COMMISSIONER: No, that wasn't the questions. Ask it again, Mr English.

MR ENGLISH: At around this time when you were doing this work to save Tommy, were you discussing with anybody the possibility of receiving flight tickets for a trip?---I remember one, I don't know about the time, but I do remember one, one conversation at the pool with Emir and I remember Tommy did talk about the fact that he had some sort of flight sort of business. Nothing, nothing engaged, no request from me, nothing.

30 Well, your evidence yesterday, I'll just remind you, when I was asking you about the flights in 2017, you said you had a lengthy discussion or discussions with Mr Balicevac about the purchase of those tickets for that trip and you said, "Not those tickets because those tickets, I paid for those tickets, business class."---Yeah, so the trip I actually paid for. So it was a discussion in 2017 about that family and friends rate which I didn't take.

But you said not those tickets. So you had a discussion around this time about Tommy or Balicevac buying you tickets for a trip, right?---I didn't, no one was buying me tickets for a trip.

40 THE COMMISSIONER: Did you have a discussion though, Mr - - -?---I, I did say that at the pool on one occasions there was this, Tommy did say that part of his business, he was going to go in to some sort of flight, flights but nothing asked, nothing taken.

So the extent of the conversation was that Tommy said he had some sort of business and he was going to go in to flights.---He, he had some sort of business where they were doing flights, flights.

And was there any suggestion that you might be provided with tickets from that business?---I don't exactly remember but there would have been nothing accepted.

10 I'm not asking you whether it was accepted. Getting back to what counsel is putting to you, and that is, was there a discussion at the pool with Mr Sirour in relation to the provision of tickets to you, whether or not you accepted, was there a discussion?---There was certainly a discussion, a side discussion around some sort of flight business but I'm not, not sure if I was offered.

Well, doing as best you can - - -?---I'm trying, I'm trying - - -

20 No, doing the best you can, sir, can you tell us what you said to Tommy and what he said to you?---Look, I don't remember the, I remember the, the conversation. The exact conversation, I don't remember but he did talk about something where he had, he had flights but that's, well, part of what he was doing, yeah, some sort of flights but, I mean, nothing was taken.

I know. You keep on saying that, you don't have to repeat it. What I'm interested to know is, whether there was a discussion to the effect that he was prepared to give you tickets.---I, I don't know about giving, giving tickets. I'm not sure but - - -

You're not sure.---I'm not sure, Commissioner.

Mr English.

30 THE WITNESS: At, at this stage, but - - -

MR ENGLISH: So is your evidence that he just raised the fact that he might be starting a business that he could get tickets. Is that the extent of the discussion or did it go further than that?---No. I, I think, no, he, he, he said there was a lady, I think, either part of his business, I just don't exactly recall because something, some arm of his business, they had sort of some, some sort of flights, flights. Yeah.

40 THE COMMISSIONER: And why was he telling you this, as you understood it?---I don't know but, but it's just come in general conversation but I don't know specifically. It was just discussed, he raised it, he talked about it. I think he was talking about Egypt. Him, himself in Egypt and something and there was, he, he now had part of a, a, an arm of what he was doing or a link to some sort of flights, provisions.

MR ENGLISH: We'll just go back to Exhibit 36, page 342 for a moment. Just so you understand the chronology. Mr Roche emails you on 15 April at 10.24. See that?---Yes.

You forward Mr Balicevac that email on 15 April at 11.35. See that?---So the next day, hang on, the next day, yes.

And then he forwards it on at 13.23 to Tommy and other's at SIG.---After being told not to, because, yeah.

10 So now if we can go to volume 2, page 183. This is a summary from Ms Li's phone, who worked at SIG. If we go over the page to 184, please. See the first entry is from Mr Li to Mr Balicevac saying, "Please call me." Ms Li then messages Mr Balicevac again saying, "You at work?" That's at 10.02.27. Then at 10.29.09, and this is on the 16th of the 4th, 2018, just so we know it's roughly 65 minutes before you forward Mr Roche's email to Emir.---So before, is it?

Before, yes. The third message, Ms Li sends to Tommy saying, "Tommy, Emir asked me to reminder [sic] you about organising the gift for Dennis." See that?---Yes.

20 Do you know what that's about?---No.

No idea at all?---No. I've never asked Emir to get something there from him, no.

And then thank you write back to Ms Li, "Yes, please." Ms Li says, "What do you want me to organise?" And then Sirour says to Ms Li also told you 10.37, "He want tickets to overseas. Just call Emir and get all details from him then and let me know." You see that?---Yes.

30 Now he, would you agree, must be you?---Well, yes, let's take it that it is.

And you wanted tickets to go overseas.---Well that's him saying that, he want tickets to go over, I mean I could read that as a question mark. You know, "He want tickets to go overseas?"

Well, then, "Just call Emir and get all the details from him and let me know." So did you tell Tommy you wanted tickets overseas in return for saving him at this time?---That's two nos. No, I didn't ask and it wasn't about saving him, it was about the operational needs at the university.

40

Did he offer tickets to you at this time?---There was one discussion at the pool, I don't remember any, any offer.

Was it around this time?---I, I don't, I don't, no, I don't think it is.

THE COMMISSIONER: You seem to be linking that discussion at the pool with – just a moment. You seem to be linking the discussion at the pool

with overseas air tickets. What was the link?---I don't think, I don't think, actually I think that was in 2017, Commissioner, not 2018 that we - - -

Well, a moment ago you told us that it was around this time you had a discussion at the pool in relation to some interests that he might have in a flight business, and that was in response to a question concerning whether you'd been offered tickets.---Yeah, I - - -

10 You volunteered that information, so what's the link?---I don't think it was, there is no link here because I don't think that was the - I can't remember those few meetings that I did have with him, what dates they were, but it wasn't that he asked for tickets.

Well, do you agree with this, that he's either making it up or somebody has conveyed to him that you want tickets to go overseas?---Could be the second and, but I, someone may have conveyed to him but it certainly wasn't an ask from me.

20 Did you suggest to Emir that that's what you wanted?---No.

Yes, Mr English.

MR ENGLISH: If we skip over the message at 7, which is about some office-related matters, and go to 8. Ms Li at 10.41 on the 16th of April messages Mr Balicevac saying, "Hi, Emir. I have talked to Tommy already. He asked about whether you can give me all the details about the trip so I can organise the ticket."---Ah hmm.

30 THE COMMISSIONER: I don't think (not transcribable). Where's this?

MR ENGLISH: That's at message 8, Commissioner.

THE COMMISSIONER: I'm sorry. I do apologise.

MR ENGLISH: So, "Hi, Emir. I have talked to Tommy already. He asked about whether you can give me all the details about the trip so I can organise the ticket."---Yeah. There was no trip. There is no trip. There's nothing planned for us, myself to go away in 2018.

40 Was there an offer of a trip, though?---There was no trip. I - - -

THE COMMISSIONER: Was there an offer of a trip? Please listen to the question.---I don't ever remember being offered a trip. The only, only thing I remember, had any conversation around that with Tommy was at a stage in the pool when he talked about flights. That's the only thing I can recollect, Commissioner, but there was no trip.

And what did he say about flights?---That part of his business now, there was an arm, or a lady in his office was now doing some sort of flights. I don't even know where they went. It was a discussion about flights.

What flights?---No, about flights just in general, that he was starting to do some sort of flights.

And what was your understanding of the reason, if any, why he was raising that with you?---I thought it was in general conversation that - - -

10

It might have been in general conversation but why, as you understood it, was he raising the question of flights with you?---I don't know.

Mr English.

MR ENGLISH: The Commissioner might have asked, sorry. You gave some evidence about your discussions with Tommy by the pool. What about a discussion with Emir about an offer of flight tickets?---No.

20

So Ms Li, you say Ms Li's statement to Emir that, whether he can give all the details about the trip, there was nothing that Emir could provide any details in relation to, is that your understanding?---There was no, there was no details of a, any trip because I hadn't planned any, any trip.

I'm not asking if you'd planned the trip. I'm asking if you discussed the trip with Emir at around that time.---I might, I might have discussed my thoughts because I would have been leaving later in this year, and I might have discussed going overseas again or something, but there was no, there's no itinerary or a trip ever planned at this stage.

30

Well, Ms Li gave evidence before this Commission, saying that – this is transcript page 103 for the record – “I think Tommy mentioned to me he wanted a ticket to the overseas.” Question, “Tommy mentioned to you he wanted ticket. So what do you mean by that? Who wants tickets? Does Tommy want them or does someone else?” Answer, “I think he, Tommy thinks Dennis wants. I'm not a hundred per cent sure but, yeah, is, is the ticket for overseas, yeah.” So did you ever tell Tommy that you wanted tickets for overseas?---No, I can't remember ever talking, other than that time he raised it about flights, but I don't remember anything about asking him for tickets overseas.

40

THE COMMISSIONER: It's not all that long ago. This is, what, April last year.---It's a fair while.

You're not in a position to confirm one way or the other whether you had a discussion with Tommy about tickets for an overseas trip?---No.

I beg your pardon?---No, sir. No, Commissioner.

You can't say one way or the other?---The only time I remember that discussion was in the pool about the flights.

That's not my question. You can't confirm one way or the other whether you had a discussion with Tommy concerning the provision of tickets to you for an overseas trip?---No, I can't, I can't confirm.

Thank you.

10

MR ENGLISH: Is that a convenient time, Commissioner?

THE COMMISSIONER: Certainly. I'll adjourn and we'll come back – I'm sorry.

MR GIVORSHNER: Commissioner, this is a matter that affects only me. Counsel Assisting is aware that I have a long-standing medical commitment this afternoon. Now, the way things are going, I do have some questions for this witness. I assume that won't be a problem if he needs to be brought
20 back to meet my convenience, is why I'm raising it. I don't know how we're going and how long he's likely to be there.

MR ENGLISH: I can't even answer that at the moment. I hoped to wrap it up yesterday but it hasn't happened yet.

MALE SPEAKER: And I'm certainly happy for my friend to go first, Commissioner.

THE COMMISSIONER: Okay.
30

MR GIVORSHNER: I have to go fairly shortly.

THE COMMISSIONER: Oh, do you?

MR GIVORSHNER: Yes. Well, in about an hour or so, yes.

MR ENGLISH: Well, I can keep going, and if we reach that, we reach that. But, I mean, I just can't give a guarantee we're going to get through Mr Smith in an hour, and I really think we'd be pushing to do that. I just
40 wonder how long everyone else's questions for Mr Smith might take.

THE COMMISSIONER: Yes, could we have an indication? And I won't hold you to it but - - -

MR COLEMAN: 20 minutes.

MR BENDER: 15 to 20 minutes.

MR DREWETT: Ms Li doesn't have any questions.

MALE SPEAKER: No questions.

MALE SPEAKER: I think I have no questions also at this stage.

MALE SPEAKER: At this stage I also have no questions.

10 MR MITCHELL: My counsel is not here, but I don't anticipate any questions.

MALE SPEAKER: I may be shorter because, again, my friend's done a lot of the topics that I was going to cover.

THE COMMISSIONER: Look, you go to your medical appointment. We'll see what we can do, and if – I take it that the questions you want to put to this witness aren't merely a repetition of what Counsel Assisting's already done.

20 MR GIVORSHNER: No, and it may be that Mr Coleman covers what I want to cover anyway, but I have some specific questions about evidence he's given concerning Mr Roche. So it'll be short but there are questions I want to ask.

THE COMMISSIONER: That's okay. That's fair enough. Well, what we'll do is if we finish then I'm prepared to stand this witness down until Monday.

30 MR GIVORSHNER: Thank you, Commissioner.

THE COMMISSIONER: I don't think there's anything else we can do. So we'll take a short adjournment now and come back at 11.30.

SHORT ADJOURNMENT

[11.18am]

40 MR ENGLISH: Commissioner, I think yesterday afternoon I neglected to request an order for you to vacate 112 orders previously made in relation to compulsory examination transcripts that were tendered in March, Exhibits 93, 94 and 95.

THE COMMISSIONER: No, it's my error. I vacate those orders now. And there was the transcript this morning.

MR ENGLISH: Of Mr Smith, which was Exhibit 98.

THE COMMISSIONER: And I vacate the orders that I've previously made in relation to that too.

COMMISSIONER VARIES THE SUPPRESSION ORDERS OVER EVIDENCE GIVEN IN COMPULSORY EXAMINATIONS BY THE FOLLOWING WITNESSES BEING GOL AMIRI HELD ON 17 OCTOBER 2018, AMYNA HUDA HELD ON 1 FEBRUARY 2019, BEN PFITZNER HELD ON 1 FEBRUARY 2019 AND DENNIS SMITH HELD ON 28 AUGUST 2018 SO AS TO PERMIT ACCESS TO THE TRANSCRIPTS OF THE COMPULSORY EXAMINATIONS TO AFFECTED PERSONS AND THEIR LEGAL REPRESENTATIVES.

MR ENGLISH: Thank you. Mr Smith, I just ask that Exhibit 36, page 335 be brought on the screen. Just so you're aware, we're looking at the chronology, I should have brought this to your attention earlier, but you can see that you send an email – sorry, Mr McCreadie sends an email to you on 13 April, 2018, at 3.47, following on, forwarding on, rather, the email from Mr Walizada saying that the change of subcontractors for Sydney Uni has been placed on hold. Do you see that?---Yes.

And you respond, "That's a start. You let Tommy know we have a breather at the moment." On 13 April, at 3.54.---Yes.

What did you mean by that, "That's a start"?---Again, that, to me the hold, it's put on hold, that's, that's the start. We need some permanence around that word "hold". Put on hold, that's a start anyway, that's, that's a start.

And "we have a breather". What is, who's "we"?---It's, I've just used it in a colloquial term, "we have a breather", "we" the university, "we have a breather". "That's a start. Let Tommy know we have a breather at the moment."

THE COMMISSIONER: We should read that, let Tommy know that the university has a breather at the moment?---Yeah, that's, if I was good at grammar, Commissioner, that's what I mean but - - -

Very well.

MR ENGLISH: And McCreadie says, "Will do," and then you say, "Good start anyway." See that?---Yeah.

So what - - -?---All that conversation is around at the moment he's not, SIG aren't going. We've got guards on university on a holding pattern till I speak to Mr Roche.

Well, if we just go to Exhibit 92, page 19. So your email to McCreadie saying, "Good start anyway," was at 3.57.50 on the 13th. If you see at 13 – is it page 19, yes – 13 April, 2018 at 3.56.28, so 90 seconds before, that's when you say to Balicevac, "We can work on more then."---Yeah. This is all around the hold to me, though, the hold. Reprieve for a while, you know, you look at - - -

THE COMMISSIONER: I don't think he said reprieve for a while, but my recollection of the email was that it was indefinite.---Yeah, put on - - -

10

Mr Roche's email.---I took that as until we met, Commissioner, until we met, Mr Roche and I. I put it on hold indefinitely. Catch up soon.

MR ENGLISH: And if we go to page 18, you can see it's at 3.54.42 that you told Balicevac, "Tom put hold on swap subbie."---Yes.

20

So you're sending an email to Mr McCreadie and you're texting Balicevac at around the same time, saying that there's been a hold put onto this plan to remove the subcontractor. So they're clearly on notice – that is McCreadie and Balicevac – of the work you're doing at the moment, that is, from 13 April at around 3.45 onwards. You agree?---Yes.

And then I showed you those text messages between Ms Li and Mr Sirour and Mr Balicevac that say that you wanted tickets to overseas on 16 April, 2018. Do you say the work you're doing during this period, principally from 12 April onwards, has no relationship to a request by you for tickets overseas?---No request for tickets from me.

30

So you never requested tickets from Mr Sirour or Mr Balicevac or Mr McCreadie?---Not that I recall saying anything about tickets to all three of those people.

Not that you recall. So having been taken through this laborious process of reconciling emails/SMSs, including SMSs on other people's phones, what do you say to the suggestion that it's likely you did request tickets in connection with these works that you were doing on Tommy's behalf at the time?---This is not on Tommy's behalf. It's about a university organisational need to have operations.

40

So you take issue with the characterisation that it was on Tommy's behalf. What do you say - - -

THE COMMISSIONER: I take issue too with the word "likely". Doesn't this suggest as a fact that you asked Tommy for airline tickets or at the very least that he offered them to you, either directly or through Emir?---I didn't ask for airline tickets, Commissioner.

And he never offered them to you? I think you couldn't confirm that one way or the other.---I, I couldn't confirm an offer, certainly nothing accepted, and, and I didn't ask, request.

Well, I think you said to me a little while ago that you couldn't confirm one way or the other whether an offer was made.---No, I couldn't confirm if an offer was made.

And you couldn't confirm that an offer wasn't made.---No.

10

No. Thank you.

MR ENGLISH: If we can go to Exhibit 98, page 470, please. This is a transcript of your compulsory examination on 8 August last year. See down the bottom you're asked a question, towards the end of the page, if we can just increase that in size a little bit, please. "Mr Smith, have you ever received any gift or benefit from SNP?" And your answer is, "SNP, no, nothing I recall from SNP." Do you see that?---Yes. Yes.

20

Is that an honest answer?---SNP? From SNP? I can't recall anything from SNP.

What about from an SNP employee?---SNP employee, well, Frank with the gift card in Christmas 2017.

So that's one thing.---There's certainly an exchange at Christmas of, between Emir, Mr McCreadie and the office staff. There's an exchange of sort of gifts, Christmas gifts, wine or hampers, those sorts of things. I don't really recall anything else. Organisation, I don't, I can't recall.

30

Why didn't you disclose those, that Christmas gift card from Mr Lu and the bottles of alcohol from, or bottle of alcohol, from Mr Balicevac?---Well, the, the alcohol and, is a Christmas, everyone in the office swaps something in the office for a Christmas gift. I didn't recall the, the Frank Lu card.

Just want to tender two emails, Commissioner.

THE COMMISSIONER: Yes.

40

MR ENGLISH: Both emails from Louise Wagner at the university, with the subject, "University policy on gifts and entertainment."

THE COMMISSIONER: Certainly. And who's Ms Wagner?

MR ENGLISH: Pardon?

THE COMMISSIONER: Who is she?

MR ENGLISH: As I understand, she's a university staff member and she's the executive officer for the Campus Infrastructure and Services division.

THE COMMISSIONER: Thank you. Do you want them marked as one exhibit? Or maybe we'll mark them as two.

MR ENGLISH: Two, please. I'm just trying to put this in the right order for you, Commissioner.

10 THE COMMISSIONER: This is, if it's an email chain, we'll just put them in as one.

MR ENGLISH: No, there's two emails. I see. It might be – I'll hand it up, Commissioner. It might be easier to do them as two separate emails. It's a little bit of confusion in the way they're laid out.

THE COMMISSIONER: If you could just identify the first email.

20 MR ENGLISH: The first email, which bears page number 1, is from Ms Wagner to CIS All Staff, CIS External Project Managers and CIS BJC Services Staff on 15 December, 2014, at 11.05. Subject, "University policy on gifts and entertainment."

THE COMMISSIONER: We'll mark that Exhibit 99.

30 **#EXH-99 – EMAIL FROM LOUISE WAGNER TO CIS ALL STAFF, CIS EXTERNAL PROJECT MANAGERS AND CIS BJC SERVICES ALL STAFF TITLED 'UNIVERSITY POLICY ON GIFTS AND ENTERTAINMENT' DATED 15 DECEMBER 2014**

MR ENGLISH: And the next email is from a Mr Kevin Duffy, who was the operations manager, Campus Infrastructure and Services. It's dated 7 December, 2015, at 8.30am, and it's to CIS All Staff, subject, "Gift policy."

THE COMMISSIONER: Thank you. We'll mark that Exhibit 100.

40 **#EXH-100 – EMAIL FROM KEVIN DUFFY TO CIS ALL STAFF TITLED 'GIFT POLICY' DATED 7 DECEMBER 2015**

MR ENGLISH: So if Exhibit 99 can be brought on the screen, please, and some copies can be handed out. Apparently it can't be brought on the screen, unfortunately, Commissioner, I think.

THE COMMISSIONER: It can't be brought on the screen?

MR ENGLISH: I'm told it can't be brought. I'll just provide a copy to the witness and some copies can go round the room. Now I'm told it is on the screen. All right. So Exhibit 99 is on the screen, Commissioner. Now, do you recall, this was 15 December, 2014, recall receiving emails of this nature at around Christmas time each year, Mr Smith?---That's the 2014 one, but – I can't remember it every year but that's one there for 2014.

10 Well, this is 2014. Friendly reminder as we approach the festive season on the university's policy on gifts and entertainment.---Yes.

And then it refers to section 8 of the code of conduct and it says, "The director has reiterated that all CIS staff cannot accept gifts and entertainment of any value from providers of goods and services to the university."---Yes.

So 15 December, 2014, you're an employee of the university.---Yes.

20 Right. And Mr Lu and Mr Balicevac are employees of providers of services to the university.---Yes.

And you, on your evidence, accepted gifts of any value from them.---Yes.

And you failed to disclose that in your external interests register.---Yes.

And the same, you've got another reminder, you can just have a look. If Exhibit 100 can be brought on the screen, please. Again, it's just a similar email about a reminder in the festive season.---Yes.

30 "Suppliers and contractors often invite staff to corporate events or provide gifts as a gesture of thanks. As a reminder to all staff, CIS has a policy of not accepting any invitations to corporate events and/or gifts. This is very important given our responsibilities and accountabilities within the university and as a public authority." Do you see that?---Yes.

Now, that again talks of the festive season and gifts but it also refers to invitations to corporate events. See that?---Yes.

40 So you're on notice there that there was a policy of not accepting any invitations to such events, and you recall your evidence in relation to the NRL tickets which SNP was providing to staff members at the university. ---Yes.

Would you agree that that's an invitation to a corporate event.---It's a football game.

Well, in seating provided by a supplier to the university at no cost, correct? ---Yes.

So do you recall seeing this email of 7 December, 2015?---No, but I won't be arguing that there were tickets.

Yes. All right, so if we go back to Exhibit 98.

THE COMMISSIONER: Is that the transcript?

MR ENGLISH: That is the transcript.

10

THE COMMISSIONER: If you're going to move on to what I think you might be going to move on to, I'd be assisted by getting the witness's account before that's shown to him.

MR ENGLISH: I had one other thing, but I can come back to that in the end. Mr Balicevac, you did stay at I think the Shangri-La – sorry, Mr Smith, you did stay at the Shangri-La in October 2015 with your wife, and you were picked up in a limousine and dropped home on that occasion and you had dinner bought for you, is that right?---I don't remember the limo going in. I remember getting the limousine home.

20

Well, just you know what I'm talking about, don't you? The event I'm - - - ?---I know, I know the stay but I - - -

Well, I want you to tell the Commissioner about that weekend, about what happened, please, and what led up to it as well.---30th wedding anniversary, Commissioner.

30

THE COMMISSIONER: Yes.---Mr Balicevac took a lead in wanting to organise the hotel, a dinner. Allowed him to do that. He was going to, he told me he was using Mr Kosachev, who is, had a travel agency at Randwick. And I don't remember too many other joining instructions. He may have handed me something. I remember, I remember he went to, he told me, over to Randwick. He got some sort of document. I never read that document, I don't even remember what it looked like, but I handed, I handed something over. And I think I at the, at the compulsory said at that time - - -

40

I want to hear your account.---Yeah. So at that time checked in and then went to a room and it was fine. Second day I went to dinner. Dinner was paid for. They said it was vouchered or something along those lines, and in my head at that stage Mr Balicevac or Mr Kosachev has done that, so whatever that was, 300 and something, 300, \$300, I knew in my head that was fine, I would be paying that back. Checked out on the second day. Again, it was covered, and then when I got the lift home I got the lift home, wife got out and went to open the house and I spoke to the driver. The driver said to me, I said, "I need to thank Mr Kosachev, I need to catch up with Emir." He said, "No, I work for Tommy." And I said, "Tommy

who?" Were my words. He said, "Tommy SIG." So then, whatever that was, I think it was the long weekend because I got married on the long weekend, so it's always the long weekend. Money was returned to Emir I would have thought around the first week, and I raised the issue with Mr Andrews, who was the manager at the time, that there was an issue with a booking and the hotel money. I think there was 900 up, which I did mention, and the 300, so around 1,250, 1,300. 1,250, somewhere around that was given to Emir at work.

10 Was there anything else you can remember about it?---It may have been, it may have been, no, not really.

At the time Emir indicated that he wanted to book this accommodation for you for your 30th wedding anniversary, was there any discussion about who would be paying?---The understanding is I would have been paying because I - - -

No, was anything said between the two of you about who would be paying?
---I would have told him that I would have paid.
20

Did you or did you not tell him that?---I would have, Commissioner.

So you use the word "would have". It suggests that you're not sure one way or the other, but just, it's a reconstruction of what you would have done in your normal course, but was there a discussion between you and Emir that, well, he could make the booking but you would pay?---But that was the understanding from the start.

No, was it said?---I'm not sure of the exact words.
30

So it was your understanding that the extent of Mr Balicevac largesse for your 30th wedding anniversary was that he would handle the bookings?
---Through Mr Kosachev.

Yes. But he would handle the bookings.---Yes.

Which is something that you could have done yourself.---Yes but he wanted to do it as a gesture of our wedding anniversary, he wanted to, he wanted to pick the place and so forth. I allowed him to.
40

All he really had to do was to say, why don't you go to the Shangri-La and you'd say, that's a good idea, and get on the phone and book it.---That's what he wanted to do through a travel agent he knew. They, he actually booked it, I didn't know, I didn't say or suggest, that's what they booked.

So you're saying you're unaware until he told you that he'd made a booking, he didn't as you beforehand whether you'd like him to do so?---I

don't exactly, I don't exactly remember but um, I know he made the booking, I don't remember.

Look, call me old fashioned, it's not a particularly generous gift, is it, for somebody to be offering you for a very important wedding anniversary the wonderful gift of making a hotel booking for you and no more.---Well, I think, so the travel, his travel agent was the one who was going to select the places.

10 What difference does that make?---Well - - -

It's not as though he's picking any exotic locations. He's choosing a fairly stock standard hotel in Sydney.---Yes.

Something you could have done yourself.---Well, it's what he wanted to do.

Very well. Yes, Mr English.

20 MR ENGLISH: I just want to, when was it that you say that you first learnt that any of that weekend had been paid for?---Well, it was, it was the, certainly the dinner, that was there, when I got there, I handed over the documentation so, when I handed over the documentation so I was just handed a key so, I can't remember the conversation with the, with the person there at the time. It may have been at the front end of that, it might have been at the front of the booking, I just don't recall.

You just said it was at the dinner - - - ?---I had - - -

30 It was at the dinner that I handed over documentation. What documentation was that?---I think there was some sort of joining, I think he gave me something to hand over but I never read it. I thought Emir gave me a piece of paper or some sort of joining instruction but I never read it.

So Emir gave you a piece of paper for the dinner?---No, no for the actual um, I thought the hotel.

40 Well, I asked you when did you first learn that the weekend had been paid for you and you said, "At the dinner I learnt that it had been paid for when I handed over the documentation" - - -?---The dinner had been paid for, I'm just trying to recollect, the dinner had been paid for, the documentation I thought that, that would have been handed at the hotel, that was a separate issue, it's a separate booking, separate place.

So was the documentation for the hire car, the hotel or the dinner?---No, it would have been for the hotel, the hotel.

So when you, so it wasn't at the dinner? What's your evidence? You learnt it at the hotel or you learnt it when you got the documentation for the hotel? What is it?---It's the documentation at the hotel - - -

But you got the documentation from Mr Balicevac before you left.---Yes, that's my recollection.

THE COMMISSIONER: But he didn't read it.---I knew where I was going then. I knew where I was going (not transcribable) tell me by then.

10

MR ENGLISH: So he was booking it for you but he'd told you where it was so you knew where to go.---Knew where to go, where the hotel was and where the dinner was going to be.

All right. So I hear it's your 30th wedding anniversary, I'm going to book you a room at the Shangri-La but I'm not paying for it.---Who's not paying for it?

20

Mr Balicevac. You're going to pay for it, is that what you understood it to be?---Yes, but he was booking it through Mr Kosachev, the travel agent.

What does that matter?---Well, it matters at the back end now we know it wasn't from him.

Well, did you say, well, Mr Balicevac, well, how much is this going to cost me?---You don't go asking too many questions on your 30th, you mightn't get to a 31st wedding anniversary.

30

Is your evidence that, you let someone make a booking for you at a, you agree it's a five-star hotel in Sydney?---I don't know what it is, the star, but yes.

You understood that you were going to pay for it but you showed no interest in understanding how much the room might cost?---I had an idea that it was going to be reasonably expensive.

THE COMMISSIONER: He wasn't going to contribute a zack to it, is that what he'd say?---Well, that's no.

40

I think last time I booked into a hotel I went to the desk and said, good afternoon, my name is Stephen Rushton, yes sir, and you fill out the details, they take your credit card and then they give you a key, but on your evidence you just hand over some paperwork, you get a key and you go to your room.---That's what I remember happening, that's what I recall happened.

MR ENGLISH: You've stated - - -?---I had to give identification, I certainly gave - - -

THE COMMISSIONER: You handed over some paperwork - - - ?---And some identification - - -

That you had received from Emir and you say you didn't read it?---No, because I knew where I was going.

Yes. You handed that over and the response you get is you're given a key. ---After a while, after a while.

10

Were you required to provide your credit card?---I'm not sure if I did or was asked, not sure.

MR ENGLISH: You must have stayed at other hotels prior to this occasion?---Not a lot.

Well, you'd be well aware that hotels ask for a credit cards to cover the booking and any incidental fees that might be incurred, you know that don't you?---Some I've been to and some don't.

20

What, so some just take the risk that you might leave without paying?---No. I've been to hotels that don't take a credit card.

What, ones where the room's paid for upfront?---No.

That's your honest evidence, that your understanding of the hotel industry is that some operators don't take a credit card or payment upfront and give you the room?---I know some people that pay cash only so you can't, they don't have a credit card for rooms.

30

And then they require a bond, don't they, hotels require a bond in those circumstances for incidentals like the minibar, correct?---No.

So what about when the limo came to pick you and your wife up? You hadn't arranged that, right?---I can't remember the actual, the going in, I remember the coming back. I don't remember getting there but I remember going back.

40

Well, let's reconstruct it. A limo turned up at your house, correct?---See, I don't recall the limo going, I wasn't sure if I went from work and the wife brought her car in to work but I, I don't know but I do remember getting a car home. That, that's what I remember about that weekend.

Well, you stayed on a - you checked in on Sunday, didn't you, and you left on a Tuesday? It was a long weekend.---Sunday. I don't recall, no, I, I would have thought, I would have thought it would have been earlier than that. I can't recall but it's - - -

It was a weekend, wasn't it?---Was it, it was a long weekend.

Yes, and you don't go to work, you've been at pains to tell this Commission that you don't work on the weekends other than by phone.---But I wasn't sure the stay was Friday and Saturday night. I wasn't sure if it's a Friday and Saturday and leave on the Sunday. I, that's what I thought it was.

10 Well, you can assume from me that it was on a Sunday that you checked in so you wouldn't have been at work, would you?---wouldn't have been at, no, not on Sunday.

So let's just go back to reconstructing. A limo arrived at your house on Sunday.---I'm going to take your word for it because I don't, I don't remember getting in there like that but let's just run with it. I'm happy to run with it.

Are you saying your wife would have gone to the 30th wedding anniversary on her own?---No. No, no.

20 So you would have been with her?---See, in my head, in my head it's the Friday but if you're saying it's the Sunday, it makes sense.

So you would have gone in with her in the limo, correct?---I don't recall but let's, I'm, I'm, I'm listening, certainly.

And limos probably don't arrive at your house frequently threat, promise pick you up and take you somewhere?---No, no.

30 And you didn't book the limo on this occasion yourself?---No, no.

So if you didn't think the limo was paid for, why did you get in?---I wasn't sure if it was part of the package, part of the deal, part of what he'd organised. I seem to remember getting home in it. Again, I'm, okay, so if I've gone in it, I've gone in but I don't remember, but it, I thought it was part of the, obviously part of the deal. It appears not.

40 But on your evidence, you only found out that the weekend had been paid for is at the dinner or is it when you checked in to the hotel?---No, the dinner would have been on the second night so it would have been the, at the hotel.

THE COMMISSIONER: When did you first find out somebody else had paid for this 30th anniversary event?---I thought the motel on the way out and obviously the dinner was in the middle of that, so the dinner was paid for but again, in my head it was Mr Kosachev or Emir who's done it and then - - -

So you didn't know prior to going to dinner?---No. No, that's, that's what I was thinking, Commissioner. It's only on the way out when I went to pay.

So when you went to check out of the hotel?---That's what I was recollecting, which was, I know it's different to my compulsory but I went home and thought about it because he looked - - -

10 How is it different from your compulsory?---Because it, I thought I was saying it was at the front end, as soon as I got there but it couldn't have been because I didn't know until I went. You looked me in the eye and you said why, why did you stay and I went home and sat in my room and said why did I stay. Because I thought it was SIG who had booked it at the front end but I didn't know that at all until the limo driver.

So you say you didn't know that SIG had paid for it until you had your conversation with the limo driver?---Yes.

20 And he said no more than I work for Tommy?---Yes. So I knew there was something obviously something gone wrong.

Well, he didn't tell you that Tommy had paid for it though, did he?---Well, the fact that he was the, the driver and he works for Tommy. I was - - -

You put two and two together?---Yes.

30 And can we take it that your wife came to learn over that weekend that this important 30th anniversary event is not being paid by you?---Had not been paid by me, no, because she wasn't, she was outside near the water when the diner voucher was, when I got that and she was over near the luggage and, and the driver when I checked out. So, and, and she was inside, she was inside - - -

But surely you told her.---No, I don't think I would have, I don't think I did.

So your evidence she didn't know?---Well, I don't know if I told her later or not but I - - -

40 Well, surely it's something you'd remember you told her. I mean - - -?
---It's far, nearly three, three years ago, Commissioner. I'm not sure.

But as far as you're aware, over that weekend she didn't know?---No. I, I obviously would have told her we were going to the city to stay and where but I'm not too sure of the rest.

But she was unaware, as I understand your evidence, that you hadn't paid for this 20th anniversary event?---No, I'm sure she was unaware or not. I'm not sure if I did.

Well, a moment ago you said, you know, when the bill was presented for the dinner, she was not near the location, I think you said near the - - -?---Well, she was outside taking photos because it was on the water, yeah.

Taking photos, yes.---Yeah.

10 So she didn't know then and when you checked out, she was standing somewhere away from the check-out desk, was she?---Yeah, over with the driver who was there at the, putting, you know, rolling the luggage in to a - -

So let me get this straight. The 30th anniversary gift that Mr Balicevac was no more that organising bookings through his Russian travel agent mate? ---That was his direction.

At the time those bookings were made, you understood that you would be paying for it?---Yes.

20 And you understood that because that's what you said to him?---Yes. Organise it but I'll be paying.

You go to the hotel and during the course of your stay, you find out somebody's paid for it, correct?---The dinner first, my - - -

Dinner first and then on the check-out?---Yes.

30 And you never disclosed this to your wife?---I'm not sure I did. So, until I got out of the car and then this fellow said he works for Tommy and she was inside by then.

So she was missing in action there too?---No, she was opening the house. I was getting the stuff out and he goes, "I work for Tommy." No, I said, Mr Kosachev, thank him and he said, "I work for Tommy."

So the first time you put two and two together in relation to what had happened, was when the driver said to you, "I work for Tommy"?---Well, the SIG connection, Commissioner.

40 For SIG?---Yeah, for SIG.

And then at some stage later, you report the matter to Mr Morgan?---Mr Andrews?

Mr Andrews.---Yes.

What did you say to him?---I said that there was a dinner and, a dinner and accommodation stay, it had been paid by a third party and I'd given Emir back the money.

Did you identify the third party?---I would have said a, yeah, I would have said, well, I don't, I don't know if I said SIG or I said there was actually a, a problem with Emir's booking, it was done by a third party. I'm giving the money back to Emir. Whether I actually said SIG to him, I'm not sure.

You didn't feel it was necessary to disclose that this largesse had been extended to you by a party who was providing services to the university?

10 ---I, I may have said a guard provider. I'm just not sure exactly what I said to him but I said through Emir. I definitely knew, I said to him that it was through Emir and there was a mistake and I was paying him. I think, I can't recall but the sequence if I paid him and told him or I told him and then was catching up with him, Emir.

You might want to draw some matters to the witness's attention? Page 471.

MR ENGLISH: Firstly, you gave some evidence earlier in response to the Commissioner's question, saying whether you told him that you'd pay, and you said, "I would have," and I think you were pressed and you don't have a clear recollection of that, that you would have told Emir that you were going to pay for it, is that right?---That I would have told him I would have paid for the weekend.

Well, we were asking about your recollection of the conversation you had with Emir, and the highest you could say was, "I would have told him that I was going to pay for it."---I would have told him. That's, that's what I'm saying.

30 Well, so is it you've got no direct recollection of it, of telling him that at the front end?---No.

So you don't have a – you're agreeing with me?---No, I'm not, I'm not agreeing. I would have, I would have said to him, that was the arrangement – that he's, he's organising it but I was paying – but I just don't have a direct memory of that conversation and where it happened and where it happened or something.

40 THE COMMISSIONER: You don't recall saying, "Emir, you can book. I will be paying"? You don't remember that conversation?---Not in specific words, Commissioner.

MR ENGLISH: When did you report the issue to Mr Andrews?---I thought it would have been in that first week after, after the long weekend. Pretty sure it was in that first week.

And did you get any sort of receipt from Emir or confirmation that you'd paid the money back?---No.

Why not?---It was a, it's a trusting arrangement. I gave him the money.

Yes, but you're looking at a potential breach of the external interests policy, correct?---Yes.

10 And you've gone on the weekend away and come back, and on your evidence you've later that week paid cash to Emir in repayment of that gift, and you're saying that you didn't think it would be prudent to keep a receipt of your cash payment to Mr Balicevac so you could provide that to the university?---No, I did report it to Mr Andrews.

THE COMMISSIONER: We might just show that witness 471, Mr English.

MR ENGLISH: Yes, if Exhibit 98, 471, can be brought on the screen.

20 THE COMMISSIONER: At the top you'll see, "And, Mr Smith, have you ever received any gift or benefit from SIG?" And you answered, "So SIG, from the times I've met that gentleman," I take it that's a reference to Tommy, is it?---Yes.

"He came to the university. On occasions he presented a gift card as a thank you to, from his staff. I always met him with a third party" - - -?---Yes.

- - - "declined the gift voucher and reported to whoever the manager was." Now, was that truthful evidence?---Yes, gift cards were given back.

30 Then you went on to say, "Apart from all this today, that's quite an innocent inoculation, a Christmas card with a gift card in it, so once or twice there was a gift card returned either direct to him or was given to Emir. When I'd open the Christmas card or, and the card that was in it was returned to Emir to give back to SIG. In 2015, Emir did a booking for me for a 30th wedding anniversary. He wanted to do something special and I said, 'Emir, you can book. I will be paying.'" Was that truthful evidence?---I, I, like I said, that's what I would have said.

No, that's what you've said to me you did say.---At the compulsory, sir, yes.

40 "Emir, you can book. I will be paying." A little later you'll see I asked you another question, where it says the Commissioner, "Who was that manager that you apparently reported to?" "It's Mr Andrews, sir, at the time that you, have been a few days after the event, and Emir was, as was going to be anyway, I said, 'You do it and I will pay you the money.'" Was that truthful evidence?---Certainly Mr Andrews was told.

No, no, no.---Oh, sorry, I'm reading further down. Yes.

The evidence, "I said, 'You do it and I will pay you the money.'" Was that said?---That, that's what I would have said.

Well, you told me you did say it.---No, that's, well, all I can say is, Commissioner, I would have said that to him.

Well, why did you tell me you had said it. And in fact you repeated it a little later.---Yeah.

“That was the proviso. You do it, I will be paying.”---Yes.

10 That was the discussion you had with Mr - - -?---Balicevac.

Yes. So that was truthful evidence.---Yes.

Go back up to the first paragraph. After you said, “Emir, you can book. I will be paying.” You said, “It came to light after that booking, he booked that through a friend of his, a Russian friend, Mr Mahalic. I can get that exact name to you.”---Yes.

20 “And it was brought to my attention after, when I went to pay for the bill, that it was billed by SIG and I had actually no idea it was being booked by SIG.” Was that truthful evidence?---The, no, because there was, I thought that was actually just, I'm not sure who had actually paid for it. The lady had just said that it was being booked. I went home and thought about this, Commissioner.

30 Well, surely when you went to check out and they broke the news to you that it had been paid for by somebody else, you would have said, “Who? Who paid for it?”---Well, in my head it's, it had only been Emir or Mr Kosachev.

So it's your evidence, is it, on oath, that you didn't ask who it was that had paid for it?---No, because in my head, I knew the two who booked it.

Why did you tell me on the last occasion that you found out it was SIG at the time you checked out?---Well, I had obviously found out on the way home, passage of time, thinking on my feet there, getting back to saying it was SIG at the time, but I didn't actually know that till the driver said who he was, and then I, so I put two and two together.

40 My question to you, Mr Smith, is why did you tell me on 8 August, 2018, that you had found out that SIG had paid the bill for, sorry, at checkout? ---Yes, that, that seems to be, have been an error, Commissioner, thinking that through.

You were asked, and when you found out or put two and two together in your discussion with the limousine driver that your stay and dinner had been paid for by SIG, can we take it that you raised that matter with Emir?---Yes.

What did you say to him and what did he say to you?---I don't remember the exact conversation, Commissioner, but I said this was paid by, it seems to have been paid by SIG, and he, he said along the lines that Mr Kosachev knew Tommy. I did not know this. I did not know this. Something around those lines that he told me. He said it appears SIG's paid for this. I said I thought Mr Kosachev was doing the booking and, ah, he said, they apparently knew each other. He didn't know. Words to that effect.

10 Might the witness be shown page 479. Line 40 Mr Baine asked you this question, "When you found out, Mr Smith, that SIG had paid for the accommodation, did you ask Emir why?" And you said, "Yes." Question, "What did he say?" Answer, "Well, he was flabbergasted as well because he had made the booking through the Russian person and the Russian person had somehow linked into SIG and I asked him how they knew each other, he said that he didn't know they did know each other and that obviously and somehow SIG had come to make the booking." Is that truthful evidence?---I think that's the way I just synopsed it then, yes.

20 What do you say to the suggestion that that evidence is just fantasy, absolute fantasy?---It's exactly what he told me, he didn't know they knew each other.

But how likely was that? How likely was that? He's making the booking, Emir, and as you understood it, Emir and Tommy had a close relationship. Correct?---Yes, well, he worked for him, yes.

30 And he's saying, "I didn't know anything about it. It must have been this Russian man and he's got some relationship that I don't even know about with Tommy." Is that, that's your evidence?---That's what he said.

Yes.---He said he didn't know they had a relationship, Commissioner.

Did you believe him?---Well, I - - -

Simple question, did you believe him?---Yes, that's what he told me.

Mr English.

40 MR ENGLISH: I stand to be corrected, I thought your evidence was that when you discussed the booking with Emir before you went that he told you he was going to book it through Mr Kosachev?---Yeah, correct.

Right. If we can just go back to 471, please, line I think 11. You said, "It came to light after the booking he'd booked it through a friend of his, a Russian friend, Mr Mahalic."---"He said it came to light after," yeah, no, that was always - - -

Was that true - - -?---That was always at the front end. He, he said that up front, he'd be getting it through Mr, that, that's the wrong word, I couldn't remember his name at the time, but it's Mr Kosachev.

Yes, but then you're saying you only found out after the event that it was booked through the Russian friend.---No.

See that?---Yeah, no, he was always booking it through his Russian friends.

10 So that's false evidence, is it?---If that's what you put it down to, that's, put it down, that was a mistake.

THE COMMISSIONER: As a police officer of some 26 years' standing you would have well understood, can I suggest, that what had occurred might be read the wrong way, to put it mildly.---Yes.

And in those circumstances why was it that you didn't send a documented payment back to SIG, that is a cheque say for example with a covering letter or an email requesting bank account details to transfer the money back in?
20 You didn't do that, you just, on your version of events, paid an amount of cash to Emir.---Yes.

And there was no record that you'd done so.---Yes, it was paid to him and in hindsight, yes, I should have perhaps made records.

What do you say to the suggestion that you didn't keep a proper record or document this transaction in the way you've described it because it didn't happen that way?---He was paid the money and I reported it to the manager.

30 Right. When you listened to that small part of the live stream broadcast that you listened to, did you hear Mr Balicevac give a version of events, that is did you hear his evidence about your 30th anniversary?---Can't recall specifically hearing him talking about that, that, no.

Are you in a position to put that to him now? I'm not saying you should. Maybe I can. So what he said is this. The substance of his evidence was that he and his wife decided to pay for your accommodation and meal on your 30th wedding anniversary because you had done two things for him.
---Ah hmm.

40 Firstly you had supported the awarding of the valour medal to him, and secondly that you had assisted him in relation to some complaint that had been made against him concerning harassment. He said that that's what he did. He and his wife decided that they would, as a gift, provide this to you. And he was then asked by me what had actually been said, and he said, "I bought him, like, this is your booking, Dennis." This is at 505, line 30, "I bought him, like, this is your booking, Dennis, where you're going to go down to – I can't remember what hotel was, he said, oh, you know, he was

basically resisting this offer then at the end he accepted.” Question, “But did you tell him why you were giving this to him?” Answer, “I said, ‘I owing you something.’” Question, “Did you tell him what it was owed him for?” Answer, “He would always say, ‘Don’t be silly, Emir.’” “No, but did you tell him about the Canberra thing and the award and - - -” “Yes, yes, I did, and I said, ‘Me and my wife want to do something for you and your wife.’” Question, “In return for what he had done for you?” Answer, “Not that I’m buying him, Commissioner, it was more as a respect, like he didn’t have to do this for me.” “No, but I’m asking you to tell me what
10 explanation you gave him for giving him this gift.” Answer, “That’s, that’s right, about the Canberra.” Question, “About the Canberra?” Answer, “And in the other instance where he stood up for me where SNP says for intimidation and harassment where he basically says this is not true.” Question, “So really it’s really for looking after you and your job.” Answer, “I could agree, Commissioner, yes.” “Nothing else?” “Nothing else.” And then he claimed that sometime later you came back to him with cash and you wanted to pay for it. And he was asked this question, “Did he tell you why he wanted to pay it back to you?” Answer, “He didn’t actually explain
20 to me, he basically said, ‘Emir, don’t worry about it, you have a young family.’ This, this was basically his explanation. ‘I don’t, I don’t need this.’ He’s saying, ‘I’m okay with the pay I get,’ he’s saying.” Question, “And that was a couple of months after he came to stay in the hotel?” Answer, “No, no, no, no, this was I think three or four weeks later.” Question, “Three or four weeks later he came with the money and you say that he had no idea Tommy had been involved?” “100 per cent, Commissioner.” What do you say about that evidence?---No, Commissioner, what he’s saying as a gift from him, that was not correct. I don’t think there was a mention of a 30th wedding anniversary in any of that
30 evidence, was there?

No.---And that’s what it, no, and that’s what, that was the whole purpose of the, of the visit.

Well, it might have been in your mind. He said it would have been on the basis that he wanted to give you a gift because of the support you’d given and you knew well, full well it was a gift, but then at some subsequent stage you came back and suggested that you didn’t really want him to pay for it and you gave the money back.---No. He was told that it was a 30th, that was the whole, a 30th wedding anniversary, that was the whole purpose of the
40 stay.

Well, not in his mind, it might have been in yours.---He was told that, Commissioner, probably more than once, it was a special occasion.

All right. So on that basis you don’t, obviously don’t agree with the evidence he gave.---No.

No. And I remind you he said that you had no knowledge that Tommy had been involved in any way, and I put this question to him, "But you're absolutely sure that he had no idea that Tommy was involved?" Answer, "Commissioner, I have two kids. I can throw him under the bus, but I can't, it's not true. He really didn't know and I feel ashamed I did this to him." On your evidence, you did know.
---Certainly at the end, yes, I did know. I did know.

10 And that's something you would have told us, you raised it with - - -?---
Emir.

- - - Emir and he said he had no idea, and he didn't understand what the connection was with this Russian and Tommy. That's your evidence.---His evidence or mine?

Your evidence.---Oh, yeah, no. I, I, I told him. Yeah.

Well, I won't bother taking you to the precise details of it.---No, no, no.

20 But one thing he did say during the course of this is that he was aware at the time this booking was made for you that Tommy had had some involvement in it.---He, he had said that, had he?

Well, and you've seen some of the text.---Oh, sorry, yeah, okay, but no, yeah. That version's not right.

Mr English. Sorry to jump in that.

30 MR ENGLISH: No, no. Can volume 2, page 79 be brought on the screen. This is the booking of your stay. You can see that it was from Sunday, the 4 October until Tuesday, 6 October.---Yes.

Mr Balicevac's evidence was that he gave you this. Is this the document you say you didn't read?---Didn't read. I thought it was in an envelope or - I didn't read any of that. It was actually, I handed the booking over but it was certainly not the detail.

40 Well, it says Booking.com. It doesn't say booked through a Russian travel agent, does it?---No.

And look who it's addressed to. Tommy.---Yeah.

THE COMMISSIONER: Is that the piece of paper that you were given?---I was given a piece of paper. It was folded but I didn't read it. I thought it was actually in an envelope. I thought it was actually, it was actually in an envelope.

And without reading it, you handed over that envelope to - - -?---Yeah.

- - - the check-in.---It was, like, in an envelope and handed it over.

And so without reading it, you must have come to the view that it had something to do with your booking?---I thought it was confirmation of, of the rooms, certainly.

Without reading it?---Yeah.

- 10 MR ENGLISH: So you handed over an envelope with something in it that you didn't know what its contents was.---No, I knew it was, I knew it would have been the booking information.

And then they just gave you a key and you went to your room?---After, after some time. I'm pretty sure I handed identification over.

But no credit card?---No. I don't think it was a credit card, no.

- 20 What level of the hotel did you stay on?---Oh, I don't know, not, it was probably, I would have thought in the middle. If I said in the middle, but that's about as, what the level of the - - -

Opera House view?---It would have been water view.

And you went to dinner on the, what, the Monday night, did you or - - -?
---Whatever the second night would have been.

So it would have been the Monday.---Ah hmm.

- 30 And how did you know what restaurant to go to?---He told me what restaurant. He told me. Emir told me what restaurant.

He said I've booked you a table for two at this restaurant?---Yeah. I must have known because I, I walked to it.

And, I mean, did you know what type of food they served there?---It was on, it was on the waterfront so it would have been, it didn't really matter. Waterfront food.

- 40 So Mr Balicevac booked you a – for your 30th wedding anniversary – booked you a table for two at a restaurant and it didn't really matter what it was?---He was told at the front, nice restaurant. You know, that was the brief.

And you didn't say, "Oh, my wife likes seafood, so can you make sure it's a seafood restaurant"?---No.

So you went to that restaurant on the understanding that you'd be paying for it?---Yes.

And you had dinner.---Ah hmm.

You can go, please, to page 97. So we can see the bill.---Ah hmm.

And you thought when you ordered these items that you were paying for them all the time?---Yes.

10

And then what happened at the end of the meal?---Wife went out, took some photos, started taking photos. I walked over to the billing area and he said, no, it's been, I don't remember his exact word, it was a male person, and he said, no, it had been, it had been paid for.

So you walked over, what, to the counter to pay?---Yeah, I think the server was, the waiter was a man, and I'm not sure whether the lady was running the business, I'm not sure which one, but I went over there, paid it, so I went over there, she said it was paid, paid for.

20

THE COMMISSIONER: And again, did you ask her who had paid it?
---No. Because in my head straight away it's either Kosachev or Emir.

MR ENGLISH: Did you get the name Kosachev when you were watching Emir give evidence here?---No, I sent it in, I was asked to send it in months ago. It was sent in. The name was sent in.

So, what, you just forgot when you called him Mahalic - - -?---No, I - - -

30

- - - in your compulsory examination, did you?---Yeah, yeah, I hadn't remembered his name specifically.

THE COMMISSIONER: Why would you have thought that he paid for it?
---Well, I thought that either Emir and him had come to some arrangement to pay for it. That, that's all I had assumed at the time.

And you assumed that - - -?---As a gift.

40

But the easy thing to do was to just ask.---Yeah. I didn't because they're the only two that could have been involved. Would have been no mystery third person. It was either of them.

MR ENGLISH: So what did you think when you were told that the dinner had been paid for?---I assumed it was either Emir or Mr Kosachev as a gift for the 30th.

And you text Emir and say, “Oh, mate, there’s a big mistake here. Thanks very much, but you shouldn’t have done this. You know I was always going to pay”?---No.

Must have taken you by surprise when you found out you didn’t have to pay for the meal. Is that fair?---Yes.

10 Why didn’t you say, “Well, no, I want to pay for the dinner. This doesn’t accord with my understanding of what was to go on. Here, take my credit card and I’ll pay for it”?---Yeah, in hindsight, I should have.

Well, you didn’t because you knew at all times it was to be paid for as a gift.---No.

And what do you say about the proposition that in around October 2015 the contract between SNP and the university, it wasn’t signed by then but fairly, a decision had been made within the university around that time that it should be signed.---I think it, it had started in September, the contract.

20 THE COMMISSIONER: That’s right, the 10th.

MR ENGLISH: Yes, it was signed in December. It started in September. ---Signed in December, started in September. Yeah.

So in October you’re getting a gift from SIG.---No idea it was from them at all.

30 It may be submitted against you that you’ve given false evidence in relation to the circumstances by which you went to the hotel and restaurant in October 2015 and your understanding of payment for that. What would you say to that?---It’s incorrect.

Now, you never signed, you say you raised this with Mr Andrews. You never signed an external interest declaration in relation to this matter, did you?---No.

What about Emir – I’m sorry, I withdraw that. Did Emir offer you any further accommodation in around August, 2016?---August, 2016?

40 Yes.---I, I don’t remember, I don’t recall specifically.

Well, around that time he was helping you move your house?---I’m not even sure when I, when I moved but I, I don’t recall him offering again, accommodation.

Did he offer you any - - ?---Oh, sorry. I thought you were talking, sorry, sorry, we were talking about motels. I thought you were saying a motel stay.

Yes, yes.---Oh, right.

10 Something like that. Did he offer that to you again?---No. Not a motel. He, when I was, okay, so when I was, okay, so when I was, was moving, I wasn't sure what I was doing, where I was going and he did offer, he didn't offer but suggested that he had a friend who had some sort of rental accommodation around Rockdale, if I needed a rental accommodation and it was never taken up. I, I stayed in the unit until, until the mother-in-law passed away and it was sold and I, and I left. I think that's, I think that's what he was referring to, is it? Is that what he was referring to?

So he did offer you accommodation in a unit in Rockdale, is that right?
---No. Once the, my, once the mother-in-law was, no, so the timeframe's not right so we're not talking about that, that's 2017. You're talking about '16, are you?

20 That was what the question was, yes.---Yeah, sorry, I don't know. Sorry, I'm, I'm thinking - - -

So what's the Rockdale unit then?---The, the Rockdale was about, that I might be able to rent a place in Rockdale, that one of his, I don't know actually who had the rental, rental unit in Rockdale. So if I was going to stay at the university, and I wasn't, then I might be able to at least rent some sort of premises at Rockdale but it was never, never discussed more than one time and I never, since the unit was sold, I, I left, I stayed in the mother-in-law's unit until it was sold.

30 Following the execution of the warrants in April, 2018, have you spoken to any of Mr Balicevac, Mr Lu or Mr McCreadie in relation to the allegations contained in that search warrant?---Yes.

What have you spoken about with Mr McCreadie?---It was more Mr McCreadie speaking to me. I, I think it was pretty much nearly on his last day or second last day when he was there before he went off sick, he, he said something along the lines of, I might have done something wrong or I, words to that effect but I don't know the exact words but he, he spoke to me about something.

40 What was your response to that?---I was pretty shocked really.

Well, so what did you say to him then?---I don't really recall what I said to him specifically.

So, well, if you were shocked, did you say, well, I can't believe, why would you be in trouble? I don't understand. Did you say anything like that?
---Well, obviously it was after the warrant. He, he, this, he's had some connection, he's done something with the warrant so I'm not going to

pursue it, there's a current investigation going, I'm not going to actually start questioning him about it. It's current matters being investigated.

10 What about Mr Lu, did you have a discussion with him?---Yes. There were all sorts of rumours in the guarding house, you could hear them in the control room talking about, you know, guarding, some guards not being in the library. Frank was in the back car park and I fronted Frank, I just said, Frank, there's some rumours that the guards, some guards didn't turn up in the library and his, his exact word, one word was sometimes and I just
20 looked him in the eye, I shook my head and I walked away. That's the extent of that conversation.

THE COMMISSIONER: And then you had a welfare check down at Broadway?---Yeah, yes. That was, that was little bit further down the track. I'm trying to recollect the sequence but yes.

MR ENGLISH: So you fronted him, you said there's some rumours about people not turning up to the library, he said sometimes, you walk away. You must have thought, well, did you think he had some involvement in that
20 when he told you that, sometimes?---I didn't ask him that he had some involvement at all, I, he said sometimes.

No, I asked what you thought though.---Well, I didn't know because it was a pretty big shock to me that he, he may have.

And well he obviously had knowledge of the practice, from what he told you.---Yes.

30 And then you met him one on one in Broadway with no one around?---Yes, yes.

Why?---We went off sick and we needed team leaders back and, and it was a welfare check as, on him as well.

40 So you needed him back even though he'd told you he's got knowledge of some suspicious practices going in with the uni in that sort of time after the warrants had been executed by ICAC?---So, obviously the university was of the understand that some of these people were going to be involved, what level, what, what depth of level, didn't know. We weren't going to ask, there was a decision made that that's a risk that the university might have to take while the investigation was going.

What about Balicevac, did you speak to him about it?---I would have. I don't exactly recall the exact conversations but it, it may have been, it may have been around the same things, guard not in the library but I don't remember exactly where, when or what that was, where or when that was.

Did you say to Balicevac I don't believe that the allegations on the search warrant could have occurred?---Look, when I read the warrant, the, the numbers, the, the size and the amount of, I think there were dollar amounts in there, I just, I just, I was in pretty much shock. I just couldn't understand how that could happen without us knowing.

I just want to ask you again, just about the pinball machine. It's your evidence, I think, just correct me if I'm wrong – so if you can explain it again. So Balicevac's looking at the internet at pinball machines, is that
10 right?---Balicevac's looking, yes, yeah, around, yes.

You sit next to him so you see what he's looking at and you have a chat.
---One desk apart, saw it.

You tell him, "I've got an interest in pinball machines"?---I don't really have an interest but I was thinking of retiring and it was something that, you know, may interest me.

So you told him, "Look, I might want one of these"?---Yeah. Well,
20 interested in looking at them, yeah.

And then how was it the machine was purchased. Can you just remind me of that, please?---How the machine was, was purchased?

Yeah. What were the circumstances by which the machine was purchased? You chose the machine?---Yes, yes. Sitting with him, yep. He said it was for his kids, he didn't care, like, Ant-Man or Spiderman, a Marvel, something, as long as his kids could, could use.

30 So if you chose the machine, it must have been because you wanted that machine at your house, correct?---They didn't care about the type, he said, of the machine but I, I was happy with that.

But you.---Yeah, yeah.

So you've got an interest in what type of machine it is because you thought it would be coming to your house.---Yes.

40 And is that because, on your evidence, you'd made this agreement with Balicevac to rent the machine?---Yes.

And that was prior to him purchasing it, so one would think logically, you have a discussion with Balicevac about renting it, right?---Yes.

He says, okay, choose a machine, yes?---Yes, yes.

And then he goes and buys it.---Yes, he's supposed to be buying it through the president of the club, yes.

And it's later delivered to your house when it arrives.---At the time, yeah, I, I think there was a, a long lag between all that but that's, in my understanding he was buying it from the president of the Serbian Club.

I think, Commissioner, if we can take a break, I can wrap this up shortly after lunch.

10 THE COMMISSIONER: Yes. All right, very well. Let's do that. We'll adjourn until 2 o'clock.

LUNCHEON ADJOURNMENT

[12.59pm]