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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 2.00PM

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

THE COMMISSIONER: Mr English.

MR ENGLISH: Mr Smith can come back up. Commissioner, I've been asked to tender something on Mr Smith's behalf, which I'm happy to do. It's a university - - -

10 MR COLEMAN: (not transcribable)

MR ENGLISH: I'm sorry.

MR COLEMAN: I beg your pardon.

MR ENGLISH: It's a University Health Service certificate about Mr Smith's work-related stress problems from a Dr Ian Marshall. It has Mr Smith's address on it, so I might just tender the copy that I hand to you now, Commissioner. It won't be put on the screen, but in due course it will be  
20 redacted and be placed on the public website.

THE COMMISSIONER: All right. Subject to that it will be admitted as Exhibit 101.

**#EXH-101 – LETTER FROM UNIVERSITY OF SYDNEY HEALTH SERVICE REGARDING THE WORK-RELATED STRESS PROBLEMS OF DENNIS SMITH DATED 12 FEBRUARY 2019**

30

THE COMMISSIONER: Thank you.

MR ENGLISH: There's another document to be brought on the screen, and I'd ask that this be tendered. What it is, Commissioner, it's a photograph of the three bundles of site time sheets that are on the shelving behind the first bar table. I'll just wait for this to be brought on the screen. Okay. So can that please be tendered.

40

THE COMMISSIONER: Why?

MR ENGLISH: Because we need a record – I said to Mr Smith at the start about Liquid Paper and I wanted - - -

THE COMMISSIONER: Oh, okay, yes, I understand.

MR ENGLISH: - - - to go through an issue with him now, because we can't tender, these are the originals, I don't want to tender them, so at least we've got a record of what's going on.

THE COMMISSIONER: All right. Well, let's make that Exhibit 102.

**#EXH-102 – PHOTOGRAPH OF ORIGINAL SITE TIME SHEETS  
FOUND INSIDE THE CAMPUS SECURITY UNIT AT THE  
UNIVERSITY OF SYDNEY**

10 MR ENGLISH: And then what I want to do, Mr Smith, so you understand, is just looking at the screen, they were three bundles that were seized from the offices at Sydney University. The two big bundles were found on the shelving I think behind Mr McCreadie's desk or somewhere similar.---Yes.

And the small bundle was from Mr Balicevac's drawer.---Right.

I'm just going to bring you one of those bundles, or I'll pass it to the associate. Can you see how there's a number of - - -?---Yes.

20 - - - tags there?---Yeah, yeah.

We've gone through an exercise of tagging up every page where Liquid Paper can be found, at least from, from that one bundle. I'd just like you to through and have a look at that and see if you can, whether you go through it all or not, satisfy yourself that there's Liquid Paper on those pages, please. It might just be quicker if you do a sample of those rather than them all, but if you just want to have a look at them.---I mean the first one I don't see any Liquid Paper.

30 No, it's the sheets with the tags.---Sorry, you've got them all in order, it's just tagged, is it?

Yes, just tags, yes, yes.---Yeah, okay. Just, I'll just do a synopsis and just a quick scan.---Yeah, I'm, I'm not going to do them all and waste the Commissioner's time, yeah.

Okay.---I take it that there's white-out on them.

40 So at least the versions that you saw there, you confirmed with yourself that there was white-out on the pages where there was a tag?---Yes.

Okay. If that could be returned, please. Now, just a couple of final matters. It may be submitted against you that you have given knowingly false evidence as to your arrangements with Mr Balicevac in relation to the pinball machine and your related evidence about your understanding of who "the president" was. What would you say about that?---Not correct.

It may also be submitted against you that you gave knowingly false evidence in relation to your dealings with principally Mr Sirour and also Mr Balicevac and Mr McCreadie as to the circumstances by which you assisted Mr Sirour in attempting to gain the Fisher Library and locking and unlocking tasks at the University of Sydney.---Incorrect.

10 It may be submitted against you that during your compulsory examination on 8 August, 2018, you gave deliberately misleading evidence in relation to the Christmas gifts you received from officers of SNP or SIG. What would you say to that?---That was an error.

Okay.---That's an oversight on my part.

20 All right. And lastly it may be submitted against you that your evidence before this Commission warrants a finding that insofar as you performed your role at Sydney University in your dealings with SNP and SIG, you were incompetent or corrupt or potentially both. What do you say to that? ---No.

Thank you. That's the examination, Commissioner.

THE COMMISSIONER: Thanks, Mr English. Mr Coleman.

MR COLEMAN: Mr Smith, my name is Coleman and I appear for SNP Security. I think it's the case, isn't it, that in the office you worked closely with SNP staff whilst they were providing the services to the university. Was that correct?---Yes.

30 Could you describe for the Commission, please, the setup of the office where you worked with the SNP officers. You said there was a control room.---Yes. It's a, it's a building with a secure control room, a semi-controlled room outside that with mechanical keys to open the buildings under a KeyWatcher system, and then an open office environment, but predominantly the SNP staff would come in, go into the control room and be tasked and leave from there and a number of officers would be in that control room.

40 Well, who would be in the control room?---Team leader predominantly, although I've had, or have heard through the proceedings here that the team leader's supposed to stay in there and that's absolute rubbish, the team leader's supposed to be in the field as much as being in that control room.

Don't worry about what you've heard, just tell me what you observed and you know, who was - - -?---The team leader comes in and out of that room, the, sorry, just give me the question again.

Who was in the control room?---Well, it depends, day or night there are different staff, but there is a team leader, there's a control room operator, a CCTV operator and the team leader comes and goes.

Right. And did you sit in the control room?---No.

You had access to it?---Yes.

10 Right. Was it only SNP staff who were in the control room?---Only SNP staff?

Only SNP employees?---No, some university employees had access as well as other contractors, SIG and other contractors.

Well, is it right that to your knowledge SIG contractors were only used for ad hoc or surge work?---No, they had filled some, some lines in the contract.

20 All right. Now, outside the control room there was another, I think you said semi-sealed office or something.---Yes.

What does that mean?---Well, you've just got to have access control cards to get into it. It's predominantly a small area where a key access machine is that holds 1,000 mechanical keys to open the older buildings.

And was anyone sitting in that room permanently?---No.

30 No. Okay. And then there was an open-plan office, was there?---Yes.

And did you sit in the open-plan office?---Yes.

And did Mr McCreadie?---Yes.

And did Mr Lu?---No.

Where was he?---He's one of the team leaders so he'd be in the control room.

40 Right. So would the team leaders be in the control room when they were on shift or would they move about as well?---The would be in the control room and in the field responding to incidents.

So Mr McCreadie, how far away from you was Mr McCreadie?---Further than me and you.

Right. Originally he sat next to you, didn't he?---Originally he sat next to me?

At the desk next to you?---He may, yeah, I, he may have sat next to me for a while, yeah.

And was Mr Balicevac in the room as well, in that room?---I'm not sure where he sat. Yes, he was in the room.

And he sat at the desk next to you, didn't he?---No.

10 Is it right that you requested that he sit at the desk next to you?---I have a vacant desk and he sat at the desk next to me.

Right. So he's one desk away from you, was he?---Yes.

Right. And was it right that you requested that he sit that close to you?---May have requested he sit there.

20 Why did you do that?---At the time Mr McCreadie's role is site manager, his role is more with the unit manager and also the, he covered the security electronics which was at the other end of the room, so he was situated one end where the operations were and he had a 2IC to do that role, so the 2IC made more sense to sit down near the control room and that person was coming and going in the control room, where Mr McCreadie was obviously a higher level employee.

Well, Mr McCreadie was, in terms of pecking order, if I could use that expression, as you understood it for SNP employees at the university, Mr McCreadie was the site manager?---Yes.

30 And below him was Mr Balicevac?---Yes.

He was the 2IC.---Yes.

Right. And was anyone else from SNP – I withdraw that. And from time to time did Tommy come into the office?---I've never seen him in the office.

40 All right. But it's the case isn't it – sorry. And were you in the office for the majority of the time or were you out in the field as well, what were you doing?---The majority of my time's out.

And whereabouts would you be when you were out?---In the campus, on the campus.

Right.---Buildings.

And what would you be doing out there, checking that the security guards were out there where they were supposed to be?---I saw guards there

sometimes, I had my own duties, I'm an operations manager, I'm not a, I'm not an SNP contract manager.

No, no, Counsel Assisting has taken you to your statement of responsibilities and job tasks and one of those was, wasn't it, to supervise the security guards in the performance of their guarding roles? You agree with that?---No.

10 You don't. Right. And one of your responsibilities wasn't it, was to understand whether or not the guards were where they were supposed to be in the performance of the guarding duties, that is physically. Do you agree with that?---That's an SNP role.

So you say you had no responsibilities for that, do you?---As the university operations manager I had nine accountabilities. One of them was to partly manage the contract.

20 Right. But as part of your role would you issue requests for services?  
---Yes.

And would you decide how many guards would be required to fill the relevant request for service?---It depends. Some needed a risk assessment, that would have been done by Mr Ledford, if it was, a manager may have been involved, I wasn't the only one to make a decision about a number of guards, three or four university staff had that delegation.

But you would be aware of the number of guards tasked on the relevant request for service, wouldn't you?---Some.

30 Are you saying that there would be some requests for service that you had no idea how many guards were required?---It may have been a simple task of one guard so - - -

And would you do the budget for the relevant costing for that request for service?---No.

Who would do that?---When you say the budget - - -

40 Well, if you've got a request for service for an ad hoc security job, right?  
---Yes.

Yeah, are you with me?---Yes.

And assume that you decide how many guards are required for that job.  
---Yes.

Well, that's an additional cost to the university, isn't it?---Yes.

Right. Well, who would decide how much would be spent on that particular job?---Money didn't come into the job. It's, it's risk-assessed and if it needs five or seven you don't do an individual budget for each ad hoc work.

I see. But would you - - -?---You have an allocation from the university per annum for ad hoc.

10 I see. Well, then you'd have to have some understanding of how much it was going to cost so you knew whether or not you were going to break the budget, wouldn't you?---No.

No.---It's risk-assessed.

Right. I think you told Counsel Assisting that once or twice a day you'd have a look at the time sheets that were filled in by the security guards. Does that accurately reflect your evidence?---I would go into the control room and if the sign-on sheet was there I'd have a look in the morning or whatever time I got there and I'd have a cursory look and that's, that's the level of attention it got.

20

So - - -?---It's an SNP document.

I know you've said that, and thank you for that. Where were they kept, these time sheets, when you saw them?---On the team leader, on the team leader's desk where staff come and go and went to sign in.

30 So what was, explain to me as you understood it the process of how a guard would sign on and sign off using these time sheets.---They would be coming in at all times of the day and night, they would go into the control room, if the team leader was there, there would be some sort of acknowledgement that they were there, if the team leader wasn't there, then they would sign in, was or wasn't there they'd sign in and then, and go about their particular task.

Right. And, well, what's your understanding of what happened to the time sheet at the end of a particular shift?---Nothing at the end of a shift.

40 The time sheets were signed on, they were kept in the control room you said.---Yes.

Well, what's your understanding of what happened after the particular shift to which the time sheet relates?---Nothing after the shift.

Well, when were they sent to SNP to your understanding?---After a 24-hour cycle, so I think, you know, the day/night shift, the ad hoc work, again, SNP process but I was told they were sent to SNP.

And who told you that?---Mr McCreadie.

Right. Did you ever see the time sheets being faxed or scanned or sent to SNP in some way?---Yes.

Right. And how was that done to your knowledge?---Usually they would go in to the photocopier which is in the open office, the area, I would see them go in there and they'd say, "I'm just sending a time sheet through," or - - -

10 Who would say that?---Team leaders, the rotating team leaders I know sometimes would do it.

Right. And on what sort of basis would that be done, would it be daily, weekly, what, to your observations?---I would, well, if I was in the office I would see them do it, it happened usually pretty early in the morning.

So in the office that we're talking about, you're what distance, from here to me to Mr McCreddie?---Probably a bit further.

20 Mr Balicevac is one desk away from you like where your solicitor is?---Yes, yes, probably, yeah.

So about 10 feet away from you, if that.---Yes.

Right. But from time to time you'd have discussions with them about the operations of the security services, is that right?---Yes, that would be daily.

30 And you'd be moving about the office and you'd have those – I withdraw that. You'd be moving about the office and you'd hear them talking about their tasks that need to be done?---Yes.

About the rostering of staff?---Yes.

About the number of guards required for particular jobs?---Sometimes.

And you'd have discussions with them about those various matters, wouldn't you?---Yes.

40 And you'd have those discussions as well out in the field with them sometimes?---Yes.

And you're aware now, aren't you, that the evidence has indicated that there was a practice engaged in whilst you were the, you undertook your tasks at the university of what's been called time sheet fraud?---Yes.

And ghosting?---Well, what do you mean by ghosting?

Well, time sheet fraud.---Because I've heard the three different definitions, I've sort of - - -

Well, what do you understand by it?---If you're, if you're saying ghosting, that's actually a charge and no one turns up. Is that our understanding?

Right. Okay. Well, you understood that the evidence discloses that was happening?---Yes.

10 Right. And you understand that the evidence discloses that some people were claiming payment for shifts they worked but using another person's name?---Yes.

And what do you call that, do you call that ghosting or not?---No, but you've got a body now, haven't you, doing the work?

Yes.---Right. So I wouldn't, I wouldn't classify that as ghosting because you've got, you've actually got someone doing the work.

20 Right.---I don't know like, what term you use, but the shift is filled but obviously not by the, the name.

And do you know that the evidence discloses that Mr McCreadie has accepted that he knew and took part in that dishonest conduct?---I haven't seen all the evidence but if that's the case then - - -

Right. And do you know that the evidence discloses that Mr Balicevac has accepted that he knew of and took part in that dishonest conduct?---If that's what it discloses.

30 Well, you know that, don't you, Mr Smith?---I - - -

You know that's what the evidence says, come on.---I haven't, I haven't, I haven't been here for the whole proceedings.

All right. And you know that the evidence discloses that Mr Lu as well was involved in and took part in that dishonest conduct?---Yes.

40 And Tommy, Mr Sirour, you know he was involved in and took part in that dishonest conduct as well, don't you?---Again, I haven't seen all of the, all of the information here, but if that's what you're saying.

And is it your evidence to the Commission that, sitting in close proximity and working with these people as you did and being the supervising officer relevantly for the university, that you had no knowledge or understanding that these activities were taking place?---None.

When do you say you first found out?---When the search warrant came.

So your evidence is that working in such close proximity to them and having seen and inspected the time sheets once or twice a day, you had no knowledge or understanding of these activities taking place, is that right?  
---No.

When you say no, are you agreeing with me? Are you saying you – you have no knowledge, do you agree with that?---Yeah, oh, sorry, I agree with that, yes.

10 And even when you'd be out and about on the campuses, checking – I withdraw that. From time to time, in your observations you'd see whether guards were where they should be or not. Would you agree with that?  
---Sometimes if it was a special event or the general staff that were on that shift.

But you have an understanding of where guards ought to have been position each day, wouldn't you?---Each day on day shift, 7.00 to 3.00, I know where the most, the, the four staff are that are on, on the actual contract for that shift. Most of this has happened on weekend and nights, no one's there.  
20

I see. So, what, do you take the view that it was done at a time such that it would make it difficult for you to find out?---I'm just saying it was done at weekends and nights the majority of the time.

Did you get to know the guards who worked at the university?---Some.

You got to at least be able to identify them, I would have thought?---Some.

And you would have seen the guards turning up day after day, that you would know and identify, I suppose.---They were on rotating shifts so they're not there day, day after day.  
30

Well, you understand there's some evidence in these proceedings that some guards had been working in excess of 24 hours and even 36 hours straight.  
---I heard that.

Did you even observe that?---No, because it may have come across the weekend or they'd be out in the field doing a job that I may not have even come across them.  
40

But did you ever observe guards working shifts Monday to Friday and every day of the Monday to Friday in which you were working?---Not that I recall.

If you had seen that, you would have been concerned that it may have constituted a breach of fatigue policies, would that be fair?---If it was brought to my attention, yes.

Well, if you'd seen it or observed it too?---Yes, but you, you're not, you're not observing the, the same staff every day, every week, it's, it's not my role. I'm an operations manager, I had 10 accountabilities and one was oversighting the contract.

But if you had observed such a thing, who would you have reported it to?  
---It would have been Mr McCreadie.

10 Now, if you'd known about the dishonest conduct that we've discussed and you'd become aware that it was taking place, who would you have reported that to?---It would have depended. If I was in my normal role, it would have been my immediate line manager. I was doing both of the jobs for about 14 or 15 months. It would have been too - - -

Yes, we know that, we know that. And who would you have reported it to?  
---I'm just telling you. So first of all, if I had a line manager, it would have been the, the unit manager. If I was doing both jobs, it would be the divisional manager.

20 Would you have reported it to anyone at SNP?---The corrupt conduct, is that what you're saying?

Yes.---No, my role would have been to report it to the university line managers.

Now, by the way, were you familiar with the terms of the contract between Sydney University and SNP for the provision of the guarding services?---In terms of the, well, I'm not going to profess that I would recall every term and condition in the master services.

30 Were you familiar with how the contract could be terminated?---Three possible breaches consecutively, is that - - -

Well, tell me your understanding of how you understood – I withdraw that. Tell me your understanding of how the contract between Sydney University and SNP could be terminated.---I'm not sure of the overall contract but I, I do recall in, in and around the KPIs, that a third consecutive breach could lead to some sort of severe sanctions.

40 Were you aware that it could be terminated for convenience on 30 days' notice?---Not, not off the top of my head, no.

Now, we've heard Counsel Assisting ask you some questions about the circumstances in April 2018, where SNP intended to terminate SIG's subcontract. Were you aware by that stage that there had been issues raised by SNP with SIG with respect to fatigue rule breaches?---I was, it was more, well, rostering is what I was told so I'm not sure if that's - - -

What were you told about the rostering problems?---That there were some rostering problems.

And who told you that?---Someone, someone at SNP, not McCreadie, not Mr McCreadie but I'm not sure of their name.

Well, when did you first become aware of their so-called rostering problems?---Right at the, right at the time when I sent the email to Mr Roche. I included it in that email, there was allegedly some rostering issues.  
10

We'll get to the email in a moment. I just want to understand what you were told.---Well, that's the time frame, that's the time frame.

Well, what did you understand by rostering problems?---Well, I wasn't a hundred per cent sure.

Well, did you ask?---I just can't remember who I met with at SNP but, and what the conversation exactly was.

20 When you say who you met with at SNP, do you mean an SNP officer who was at the University of Sydney or working from head office?---No, no, no. Someone from the office I thought. It was someone from the office who came out I thought.

Well, who from the office at SNP would come out and visit you at Sydney University?---Mr McCreadie's line manager, senior manager.

Who was that?---I, I don't know his name. They, they change regularly but -  
--  
30

Well give me one name if you remember any of them.---Laurie Bewes, no, Laurie Bewes, he was gone for a while. So this was all - - -

He was there at a much earlier time, wasn't he, Mr Bewes?---Yeah, yeah. You, you just said throw at a name at you so I did.

Well, let's try and stick to the relevant time frame.---Yeah, I don't know, I don't know of their name because they, they did chop and change a bit.

40 Well, doing the best you can, tell the Commissioner what this SNP person told you about the supposed rostering problems that SNP were encountering with SIG.---Broadly speaking, I thought there was some alleged rostering issues there that, I don't even think it was the City Campus, I thought it was another campus, but someone had worked in excess of, of shifts.

What do you mean by that?---Perhaps in excess of, of the hours that they should have been.

Well, what was your understanding of the effect of that, if that was true?  
---Well, it's a fatigue type issues, yes.

So did you take any steps once you were told about that to make any enquiries of Mr McCreadie or Mr Balicevac or Mr Lu of these issues?  
---Well, you wouldn't – no. It was Mr McCreadie, I would have spoken to Mr McCreadie about - - -

10 And did you?---Yeah, he was at the meeting so he was told.

I see. And did you take any enquiries, take any steps, I should say, to make an enquiries of Tommy about this issue?---Oh, I didn't personally but it was SNP and Daryl that was going to do that.

Well, did you follow up and see whether they did?---I can't recall.

20 Now, if the email at Exhibit 35, page 330 could be brought up, please. I'll try and limit my questions, Commissioner, so that they're not repetitive of counsel's.

THE COMMISSIONER: Thank you.

MR COLEMAN: So, Mr Smith, in the paragraph beginning, "I have an emerging issue apparently to arrive in my lap tomorrow. SNP apparently moving on the subcontractor S International on the surface, it appears, for a few technical roster breaches." So when were you told about those technical roster breaches?---That, in my mind, was the meeting with the SNP line managers and Mr McCreadie.

30 So who was at this meeting to your recollection?---No, I just don't recall the name, there was one or two - - -

There was a Mr McCreadie and someone else or - - - ?---Yes, yes, I said he's line manager.

Right. It says a few technical roster breaches.---Technical roster breaches, yes.

40 If an employee is working such that they are breaching the fatigue management rules, would you regard that as just a mere technical roster breach?---It's a roster breach if they are.

Now, you say in the next, under Key Points, "This is a perilous decision for me. Eight out of my 10 control room operators are with S International and two traffic officers." Do you see that?---Yes.

Explain to the Commission why this was such a potentially perilous decision for you, please.---The control room operators are the ones we

discussed that require two and three and sometimes four months, depending on their ability to run the systems and understand the alarm infrastructure of every building on campus, task the operational guards to the site, so you've got to have a decent knowledge of the site. There are 70 hectares there, Commissioner, just in the City Campus and some very dangerous materials in the buildings - - -

10 So that's just something, that's just the control officers you were concerned about is it?---No, and also the, that's, that's the primary, that's the primary issue right there, those eight. Also the - - -

Did SNP have security guards who were trained to operate in the control room?---Yes, not enough.

20 All right. Well, how many of the control operators were SNP and how many were SIG?---I don't know because they're all badged the same but when we investigated it there were more – they're all badged the same so you don't know who's SIG, who's SNP, and when we interrogated the actual roster there were more SIG than SNP who were actually control room operators.

So when did you interrogate the roster to obtain this information?---This was at the time that they were talking about pulling them out.

Well, we've been through the chronology with Counsel Assisting. You knew from the 10<sup>th</sup> of April that notice had been given to SIG terminating their services by SNP, correct?---Around then, since the 12<sup>th</sup>, so it's probably a few days before that, the letter, yes.

30 And you knew that the last day of service according to the email, and we can look at it if you want, was going to be 8<sup>th</sup> of May, 2018, correct?---Yes, okay, so a month or so - - -

Do you want to see it or do you want to take it from me?---No, no, no, I'm taking it, I'm taking it, yes.

So that's 28 days.---Yes.

40 All right. In your opinion are you saying that that was an insufficient time in which to transition to a new supplier and have appropriate induction training for that new supplier's guards?---Yes.

Is that what you're saying?---Yes, especially in control room.

Right. Well, in the control room, you've accepted there were SNP personnel who were trained to operate there?---Some, not enough.

And other SNP employees could have been trained by those employees to operate there, couldn't they?---No, because you needed a specific person and not everybody is suitable to be a control room operator. Some are better suited in the field. They're hand selected to work the control room, you just, you just, it's not horses for courses. It's a fairly selective process to get someone in the control room.

10 Well, who makes that selection? SNP, I would suggest to you.---SNP on-site, Mr McCreadie and also us, university, have a say in control room operators.

Sorry, what role do you have in saying which SNP guard goes into the control room?---So it's Mr Ledford makes those decisions generally, he's the security risk co-ordinator, but if they're not competent we can't have them in there. It's too great a risk. Not everybody's suitable to a control room operation.

20 Right. When you say not competent, you mean as a security guard generally or someone to operate the control room?---Operate the control room.

But surely any security guard coming in would have to be trained to operate the control room, correct?---No, they're not.

No, they'd have to undertake training when they first came to the site, wouldn't they, to be able to operate the control room?---No they're not, they're given a general induction to the university, they're not taken in and sat in the control room as a module.

30 I probably phrased my question poorly. If a security guard was going to work in the control room - - - ?---Yes.

- - - and they came to work in the university, that security guard would have had some training to be able to work in the control room, would you agree with that?---(No Audible Reply)

40 They couldn't just walk straight in and operate it, could they, on your evidence anyway?---No, no, and they wouldn't be allowed to, and we had a policy, you really have to work in the field of the university before you actually went in to be a control room operator.

Where was that policy? Was that a written policy?---No, but that's the way we operated.

And who did you communicate that policy to?---That was our standing operating procedure, basically.

So was this SAP written down anywhere?---Um, not too sure but it has been, that's the practice and that's the way we practised.

How long was that the practice for?---Since I've been there.

And who instituted that practice? Is that something you thought up?---No.

Well, who designed that practice?---I don't know but that's - - -

10 Well, who told you about the practice then?---I can't exactly remember but that's the - - -

There was no such practice, was there?---Sorry?

There was no such practice?---The practice has been going for years. You're not allowed to get into that control room and use the control room unless you have some months' experience in the field of the university.

20 I see. And you can't identify who told you about the practice?---Um, not at the moment.

Beg your pardon?---Not at the moment, no.

You can't tell us whether it's written or oral?---No, I would talk to Mr Ledford and Mr Tamasauskas because they actually run the control room, they may be able to steer me in direction if it's somewhere in documentation, but they actually manage the control room, the electronics side, and Mr Ledford all the equipment in there.

30 Now you were on the committee, I think, which evaluated the tenders in 2015 for the provision of security services to the university, correct?---Yes.

You looked at some of the material with Counsel Assisting yesterday about the tender evaluation, right?---Yes.

Can Exhibit 69, page 150, be brought up please. Now this is the front page of the request for tender and security services by SNP.---Yes.

40 All right. Would you accept that?---Yes.

That's something that you would have seen in the course of exercising your role as part of the Tender Evaluation Committee. Is that right?---Yes.

I think, and we won't go to the document, but you had to list certain criteria in the performance of your role on that committee and assess whether or not the various tenders, firstly, fulfilled the criteria - - -?---Yes.

- - - and then give them a score.---Yes.

SNP, as we saw, ended up getting good scores and were successful on its tender, correct?---Yes.

Can page 157 be brought up, please, page 157. You'll see there 1.2 Training.---Yes, history of detail in relation to training, methodology, yes.

So you'll see, that's the criteria under 1.2 under the heading Training. Is that right?---Yes.

10

And then the tenderer would answer separately. Under the answer section, you'll see that it's said all SNP staff undertake a corporate induction training prior to employment. Do you see that?---Yes.

And they had to do various health and safety policy training. By the way, do you remember reading this document?---I would have read the document as part of the tender but it's three years ago but - - -

I know but you had to because you had to give a score for the relevant criteria, didn't you?---Yes.

20

You'll see on page 158, it says staff at the university undertake a 12 day induction process at no charge to the university?---Yes.

The initial six days consist of online contractor induction and work buddying with an experienced university officer and the last six days the new officers will be shadowed by an experienced university officer and assessed as a team leader. A copy of the university induction program is continued in the appendices.---Yes.

30

And it says, "Through these rigorous training programs SNP ensures that our security personnel – both the security personnel on duties and the backup staff – are well equipped with up-to-date skills and knowledge to perform their day-to-day duties." You see that?---Yes.

Now, so that indicates that the Tender Evaluation Committee accepted, didn't it, that in order to be able to work on the site it was sufficient for a security guard to undertake a 12-day induction.---A general 12-day induction.

40

Well, where does it say anything further about control operators?---It wasn't specified in this document, I wouldn't think, but there's a specific need around control room, traffic duties. There are quite unique positions within the framework of the document. This, this would have been talking about a general, a general officer that's going to walk around the campus.

I see. Pardon me for a moment. Just pardon me for a moment, Commissioner.

THE COMMISSIONER: Sure. Just take your time.

MR COLEMAN: Right. We'll come back to that. But as you've accepted, there was a four-week period given by SNP to SIG for its termination of services, and I want to suggest to you that that's plenty of time in which to be able to train additional SNP or contracted guards to be able to provide the services that SNP was obliged to under its contract with the university.  
---No, not such a massive change.

10

And you were deliberately exaggerating the impact of the changes in your email to Mr Roche.---No.

Now, Counsel Assisting has asked a lot of questions about it, so I won't continue, but could we have the page 330 of Exhibit 36 brought back up, please. And you see the second-last paragraph on that page, Mr Smith, "Given all the above"?---Yes.

20

"I'm requesting business as usual for this university in terms of the ad hoc supplier. We accepted the tender with the lodgement of S International as the subbie." The "we" in that sentence is the University of Sydney, is that right?---Colloquially speaking, that's what I've, I've put there, yes.

Well, it was the Tender Evaluation Committee making the recommendation on behalf of the university, is that right?---Yeah, I agreed with you the first time.

30

And indeed SIG, to your knowledge – and to the knowledge, I want to suggest, of other university officers – had performed those subcontracting services under the contract, correct?---Sorry, just that question again.

Well, SIG had, after the award of the tender to SNP, performed the subcontracting roles that we've heard about.---Yes. Yes, sorry, yes.

To your knowledge, and I want to suggest to you to the knowledge of other officers of the university.

MR BENDER: I object to the last part of the question.

40

MR COLEMAN: Well, Mr Hardman knew, didn't he?---Sorry, just the question again.

You weren't the only university officer who knew that SIG were performing subcontracting duties under the SNP contract at the university, correct?  
---Oh, no. No, no. Other university staff in that room would have known.

Yes. Who else, to your knowledge?---Oh, Mr, out staff, the Campus Security staff, Mr Ledford, Mr Bowman, Mr Tamasauskas.

Mr Hardman when he came in as your superior?---Yes, he would have known, yes.

Now, you say, "There will most likely be increased hours in guarding for all of the five new buildings coming on board. I need the trained staff I have at the moment to accomplish this." See that?---Yes.

10 Well, we've already seen, haven't we, that the induction period for general staff was 12 days.---Yes.

Right. And that's plenty of time to get those staff up and running to guard the other buildings, isn't it?---It's not so much guarding the other buildings. It's actually working on the university campus, all the campus.

20 Well, well, the only distinction you made before was that additional time would be required for security guards to work in the control room.---I, let me just refresh, I talked about traffic as well and I talked about control room operators and traffic particularly, but it's the site knowledge of such a unique site. The university is just not a normal guarding site.

But in the tender that we looked at, SNP said that to work at the university they undertake a 12-day induction, correct?---Yes.

And that's something that you approved.---Yes, but if you're transitioning out a bulk and you're bringing in newbies and they all have a 12-day induction together, you've actually lost immense site knowledge all in one go.

30 You've got four weeks to do it.---I've been there for nine years and I would never have been in every building. It's a unique site. You've got 260 buildings just on the City Campus, you know, seven and 10 floors each. It's a city.

In order to train a security guard to be able to competently undertake their duties at the university, you're not suggesting, are you, that they would have to go into every one of the 260 buildings?---No.

40 All right.---But I'm saying to you it's going to take, you've, you've got, you've lost all the experience that's going to have been built up. You've got 20 or 30 brand-new people. There's no cross-pollination of experience.

So the flavour of this email, I want to suggest, was that you were making it appear to Mr Roche that it would be, sorry, it would be an extremely serious, there would be extremely serious consequences if he followed through on terminating the SIG subcontract. You agree with that?---I think for the university there would be. It would have been. That's the, the line there.

And you say that's all you intended to convey, that it was just serious consequences for the university?---Yes, yeah.

Look at the – just pardon me for a moment. Look at the last paragraph. You see, “I have not received an official email request to accede the new supplier, but realistically for this site, University of Sydney, I don't want to get it and have to answer it in an official capacity and send it up the chain.” You see that?---Yes.

10

That constituted a threat, didn't it, to Mr Roche, that if he withdrew SIG's services that you would take steps to pass it up the chain, as it were, with the risk that SNP's contract with the university would be lost.---No, Mr Roche knows me personally and that was not intended to be a threat at all. He wouldn't have taken that as a threat. But there obviously would have been some issues. There was already some issues around Telstra SNP. We just didn't want to obviously go and create a whole 'nother issue around the, the guarding, a whole 'nother issue around the guarding at this stage, when we could remedy the problem by obviously fixing this fellow's roster or fatigue issues, what they were, and keep the, keep the supplier.

20

We'll go to the third dot point just above the paragraph starting “given”. So it's the dot point, “There are issues, as you know”.---Yes.

You see that? “There are issues, as you know, with Telstra side of the business, and I do not want to,” in all caps, “add to that noise going to the new director.” Pausing there, who's that?---There was a new director of – just say an operations director. It's, it's two levels above me.

30 And who was that?---I think that was Mr Hoyle.

And you say that there was some noise about the Telstra side of the business. Was that, are you indicating to Mr Roche that there was some dissatisfaction on the university's part with SNP's work with respect to that side of the business?---Yes, he would have been aware of that because there were breaches put in on the KPIs.

40 And you were making sure you highlighted to that to him at the time, weren't you?---Just, just reminding him (not transcribable) got those issues, yeah.

And you didn't want to add to them by there being a problem with Mr Roche terminating someone who you regarded as a valuable subcontractor. And you say you don't want to go to the new director with the final year of the contract being next year, albeit it's (not transcribable) option, year 6/7. That's a threat that if you went to the director, they wouldn't be able to undertake the final two years of the contract if the option was exercised. That's right, isn't it?---No, it's not meant to be a threat.

Well, what you intended in this email, Mr Smith, was exactly that. It was to threaten SNP that if it went through with the termination of the SIG contract, you would take steps to pass it up the line such that their contract with the university would be at risk.---That wouldn't have been a decision - - -

10 That's what you meant, wasn't it?---No, that's not, wouldn't have been a decision for me either. Making a determination around the contract is way above my pay grade.

No, but if you passed it up the line and made recommendations to that effect, that would have some weight with your superiors, wouldn't it?---No. I would have had to go through three line managers to get to a decision maker around any sort of termination.

20 Well, then why did you say I don't want to pass it up the line or send it up the chain? You didn't want to send it to the new director and then on the bottom, you didn't want to send it up the chain. Why did you say that?  
---That, that is to the new the director, that's what I was talking about.

30 Well, then in the last line of the page, you said, "I don't want to get it and have to answer to it in an official capacity and send it up the chain." What did you mean by that?---It could have obviously been a matter that we, we could have settled at a lower level without having to go to senior management. They were talking of a couple of fatigue breaches. They weren't saying that, they're not saying there that this SIG company's crook and they've been ripping the university off. He's talking about a couple of fatigue issues. If they could be sorted at the lower level, then that's what we should be trying to do.

That's completely false evidence you've given there, Mr Smith, isn't it? You intended by that to say that if you got the email, you would send it up the chain in an official capacity, such that there would be consequences for SNP. That's what you intended, isn't it?---No.

40 Can Exhibit 80 be brought up, please. Now, on the first page you'll see, about halfway down, "Yeah, so that's our line." What did you mean by that?---Yes.

MR MACKAY: Commissioner, I think this might have been covered by Counsel Assisting.

MR COLEMAN: I'd ask just for a little bit of leeway in terms of how it affects my client. I won't - - -

THE COMMISSIONER: A wee bit.

MR COLEMAN: All right. Well, I withdraw that question. Can you go to page 3 please then. Now, this is after you've talked about the health and safety bloke and Mr McCreadie says, "Yeah, yeah, he'll turn to them and he'll just say make it work," and you say, "All right because what I basically said, because I don't want to get the email and have to officially respond to it and send it up the line because if you read between the lines there, that I won't be happy with it and I'm going to send it up the line for comment. Now, I want to suggest to you that supports the construction of the email I've put to you, that you were putting at least an implied threat in your email to Mr Roche, that if you received official notification of the termination of the contract, that would send it up the line such that there might be consequences at SNP with its contract with the university?---No. Mr Roche knows me. It, it's not an implied threat and I wouldn't have the decision around making any dents or taking the contract away from SNP.

THE COMMISSIONER: But you were trying to stop it, weren't you?  
---Stop the contract with SNP?

20 Stop it being taken away from SIG.---Well, we certainly didn't want SIG going, no, Commissioner, no.

MR COLEMAN: And you were pretty happy when you heard about the decision that SNP cease – sorry, I withdraw that. You were pretty happy when you heard that SNP had agreed to put that decision on hold?---Yes.

And you immediately took steps to tell Mr McCreadie? I mean, Counsel Assisting showed you that email.---Right, okay so yes, yes.

30 Mr Balicevac?---Yes.

And you wanted Mr McCreadie to tell Tommy?---Just to let them know, yes.

And did you tell the president?---Sorry?

Did you tell the president the good news? Remember back in Exhibit 92 at page 6, back in 2017, you said there president was surprised that SNP had moved on?---Yes.

40 I'm curious to know why the president is interested in my client. Did you tell the president that SNP had decided not to terminate the contact with SIG?---No.

No. Because the president's Tommy, isn't he?---The president is not Tommy, it's Boris, as the Commissioner gave you his name yesterday and he's the president of the Serbian Club.

Well, why Boris lost interest in what my client was doing at the university in the time from 2017 to 2018, such that you didn't think you needed to tell him? Can you answer that?---No. It's, no.

You have no answer?---No. I, I, I, no. There's only one president and that is the Serbian Club president.

I see. That's the examination. Thank you, Commissioner.

10

THE COMMISSIONER: Thanks, Mr Coleman.

MR BENDER: Mr Smith. Bender is my name. I appear for University of Sydney.---Yes, sir.

You're aware of the fingerprint scanner system that's in place at the university, I assume?---No.

Well, you've seen some fingerprint scanner equipment around campus, haven't you?---Yes.

20

What do you think it does?---It's a fingerprint scanner. So, yes, I understand what it does but - - -

Well, what does it do?---Well, it's going to identify fingerprints to a, a staff members.

And it can be used to record when somebody has used their fingerprint on the scanner, can't it?---Well, I guess so, yes, yes.

30

And it was used in that way, would you agree, by you and your team in a period until about 2016 in respect of the SNP guards, is that correct?---No. So the front end of your statement's not correct. It's not used by the university team, it's an SNP product. It went, the data went to SNP and I think the technology couldn't, couldn't read their roster system or something from memory and it was only there for a very limited time and it was taken out.

So do you say that the university took no steps to satisfy itself that the guarding services that were supposed to be provided were in fact provided by using the fingerprint scanners, is that your evidence?---Sorry, say that again?

40

Do you say that you and, to your knowledge, nobody else at the university ever used the fingerprint scanner data to ensure that the SNP guards were in fact turning up to do their job?---It wasn't a University of Sydney product and we didn't, the data's SNP data.

Can Mr Smith's examination of 8 August, 2018, 11.30am, please be brought up at page 457.

MR ENGLISH: That's Exhibit 98, I think, Commissioner.

MR BENDER: I'm sorry. Exhibit 98, thanks. Can you see, Mr Smith, at about line 30, you were asked what steps the university took to satisfy itself that the additional services were in fact rendered. Do you see that  
10 question?---Yes.

Just read your answer, just to yourself.---Yeah. So that's SNP interpreting their data, that's not the university has access to that data. We wanted team leaders around the - - -

Well, can you see the question you were asked was, "What steps did the university take to satisfy itself," can you see that?---Yeah. So that's SNP introducing a fingerprint scanner so they can identify their people would turn up, not the university access to that data. We never had access to that  
20 data.

THE COMMISSIONER: Were you ever asked for it?---No, Commissioner, no. Not that I recall.

Thank you.

MR BENDER: Can I suggest to you that you did in fact, and a member of your team did in fact, in the period until Microster crashed, you used the records of the fingerprint data to verify that SNP guards were attending, do  
30 you agree?---I, I don't agree, no. I, I've never seen the fingerprint data.

And the reason that the fingerprint data ceased to be used was that the SNP technology ceased to work with it, is that right?---I'm not a hundred per cent sure but I know that there was, there were some issues with SNP, yes, product verse rostering or something but it was taken away. It wasn't there very long.

And about when did that occur?---I couldn't remember. I haven't been there for - - -  
40

Was it in around 2016?---If you've got someone else to say that, I wouldn't disagree, but I just don't know.

And are you aware that the university has its own software that could be used with the fingerprint scanners to monitor where people are going and using their fingerprints?---The university?

Yes.---Oh, no.

Sorry?---No, no.

So the only software you're aware of that can be used with the fingerprint scanners is the SNP Microster software. Is that the case?---No, these were their fingerprint scanner, this was their system, not a university system, there wasn't a university fingerprint scanner. We didn't supply the scanner and say work it, the whole product came in from SNP.

10 So you're suggesting that the hardware was from SNP?---Yeah, yes, the whole system came. It's not a university fingerprint scanner, they brought the whole box and dice.

I see.---That was my recollection, sir. And, look, I don't know the new one but I think it would be exactly the same, an updated version of the new one, SNP brought the whole product, back end, front end, fingerprint scanner, the lot.

20 Do you think Mr Andrews would agree that SNP supplied the hardware?  
---Oh, I don't know if Mr Andrews would agree. We might have given a rack or something to them to, to facilitate it but I'm just not sure.

I'm talking about the actual device that records the fingerprint. Do you think Mr Andrews would agree that that was supplied by SNP and not the university?---Oh, I don't, I don't know and I stand to be correct but I thought it was all their system.

30 Right. Isn't it the case that the university has its own systems in place quite independent of SNP to record people's comings and goings using the fingerprint scanners?---I'm not sure because we, no, I imagine there would be, but it was never suggested about a fingerprint scanner from the university.

So you imagine that the university would have its own methods, independent of SNP, of monitoring people's comings and goings using the fingerprint scanners. Was that your evidence?---I don't know.

40 You never thought to investigate that after the Microster system crashed?  
---No.

You never thought that would be a good idea of checking whether the guards from SNP were turning up and doing their job?---Well, again you're not getting back into workplace surveillance data. We weren't allowed to use access card, we weren't allowed to use CCTV.

So you say you got some advice from the university OGC that the university wasn't allowed to use the swipe card data and the CCTV recordings to monitor guards' comings and goings. Is that your evidence?---Yes.

When do you say you got that advice?---From the privacy team, we spoke  
- - -

When?---I don't know exactly when, but we speak, we speak to the privacy team on a weekly basis because we are the holders of all that information and every request we send to them, nine come back as a, as a no because it's a general request about a movement of a staff or an affiliate or a contractor.

10 Those are requests for you to provide recorded data to third parties like insurers or the police, right?---No, no, to staff and faculty, HR managers, or a manager wants to know what time Smith came to work and went.

And so it's your suggestion that you truly believed it was somehow against the law for you to look at the CCTV recordings for example to see whether the guards are doing their job?---Yes, and, and, and the access control cards.

20 Okay. Well, you're aware that there was an induction of SNP guards at the university campus, aren't you?---Induction, yes.

And no doubt you were very interested to ensure that they were inducted in a way that was appropriate for the university?---Well, I couldn't get to every induction, I'm an operations manager, I'm not the SNP manager, they're responsible for their induction, I would get to them where I could but I couldn't get to every one.

30 So having observed, so you observed an induction, did you, in your capacity as the operations manager for the CSU?---First day of an induction because they would have been spoken to in a room and then they're split up in different, different roles.

And you're aware, aren't you, that one of the things that occurred at the induction was that a consent was obtained from the SNP guards to be monitored and for the surveillance data to be used to monitor them?  
---No, I'm not sure that's correct.

You're not aware of that?---No.

40 So I want to suggest to you that there was actually no impediment to you using the CCTV data or the fingerprint scanning data throughout 2016 to monitor the movements of the guards. Do you agree?---Well, that's not the information we had, myself, Mr Ledford and, and, and – depends on when in '16, if Mr Andrews was still there, but the - - -

And it's the case, isn't it, that the CCTV recordings are maintained on the system for a period of about 21 days or more?---Yes.

And in fact when Mr Andrews was around, sometimes in the morning members of the team would review the overnight recordings to ensure that everything was proceeding properly the night before. Do you agree with that?---So it would be impossible because there would be so much footage you couldn't, you couldn't do it. There are thousands of cameras.

10 I'm not saying that every day everyone reviewed all the cameras, I'm saying from time to time somebody would come in the morning and check some of the footage and make sure that things in general were okay.---I'm not too sure who the someone you're referring to is, but if there is a someone - - -

Well, did Mr Ledford in the morning ever look at the overnight recordings to your knowledge?---If there was a problem in a camera or hardware he would, he wouldn't be, he would not just be going through CCTV because he's the one that rams it down everyone's throat you're not allowed to look at the CCTV or get the access data, and he's the holder of that base information.

20 So Mr Ledford's position is, as you understand it, he is restrained by law from showing the CCTV data to other members of the Campus Security Unit?---Or anybody else that comes and asks to view the cameras.

Well, let's put anyone else to one side. He would say, would he, that he is restrained by law from showing it to you when you were employed at the university?---Showing – it depends what you're saying about showing the CC - - -

30 Showing you the recordings overnight of the CCTV footage. Would he say to your knowledge that he wouldn't show them to you because it was against the law?---No, if there was an, if there was an incident or, or, or an event, then yes, we would review the CCTV, not as a piece of hardware where you're going to be watching people coming and going.

THE COMMISSIONER: Who do you say gave you this advice? I know you've said it but - - -?---It's the privacy commission, sorry, the privacy team within the office of general counsel.

40 Can you give us a name or - - -?---The lady we dealt with on a weekly basis was Ms Davidson from memory. I can't remember her first name.

And was that advice provided in writing?---I'm not too sure, Commissioner, it may have, but we certainly sent written correspondence every week about requests for faculties who wanted to know the movements of staff and, and it just kept coming back, no, same reason.

MR BENDER: I have copies of what I think is the advice. I can hand one up.

MR ENGLISH: Well, Commissioner, I've been provided with a copy thankfully I think today. We've had copies made. We can't load it onto the screen but I can tender the advice and copies can be handed round in hard copy, including to the witness and yourself, Commissioner.

THE COMMISSIONER: Thank you.

MR ENGLISH: Can I hand up two copies for that purpose.

10 THE COMMISSIONER: I'll admit that into evidence and it will be marked 103.

**#EXH-103 – EMAIL FROM ASHLEY FRY TO MORGAN ANDREWS, DENNIS SMITH AND DOMINIC STEWART TITLED 'SWIPE CARD RECORDS ADVICE – CONFIDENTIAL & PRIVILEGED' DATED 27 JULY 2015**

20 MR BENDER: Have you read that, Mr Smith?---Yes.

Is that the advice you're referring to?---It's probably not the advice I'm referring to in later times, but this advice and my reading of it, it's still not about - - -

I didn't ask you about your reading of it. So this isn't your advice you're referring to, there's some other advice is there?---I'm not sure if there's more written advice but I'm not dealing, certainly, with this person anymore, the lady we deal with, I think her name is May Robinson, may  
30 have a different view and this is still not about security being able to - - -

I didn't ask you what it's about. Now, can I ask you this, you received this document on 27 July, 2015, that is before the Microster system crashed, isn't it?---I don't know when the system crashed.

You don't remember.---That's absolute rubbish.

Can I just direct your attention to the section under Workplace Surveillance Legislation on page 2.---Number 2, yes.  
40

You see there in the second paragraph of that section the advice states what the obligation is, which is not to commence without prior notice in writing surveillance of an employee. Can you see that?---Sorry, the Act, the Act is it, the Act provides?

Yes.---Yes.

So you read that sentence.---Getting there.

No doubt, because you take this issue very seriously you read this email when you received it.---I would have.

So you would have understood at the time that the legal restriction is not to conduct surveillance without prior notice in writing.---Yes.

10 That would have been a very easy thing to do, give the guards notice in writing that you were going to use the CCTV to check on them. Do you agree?---Use the CCTV to check on them, use the CCTV to check on them, I'm not sure.

Well, you could have written a letter, a form letter, and sent it to every SNP guard saying that attendance management would be supervised using CCTV, couldn't you?---This is not about attendance management - - -

20 I didn't ask you what it's about, I said it would have been very easy, wouldn't it, to send an email to SNP guards saying we're going to use CCTV to make sure you're turning up to do your job.---It wouldn't have been my decision at the time, it was Mr Andrews as the manager so - - -

THE COMMISSIONER: Why is that so? Why couldn't you have made that decision?---He's the, he's the overall manager, sir, I wouldn't have been able to do anything without his approval.

MR BENDER: So did you ever ask him?---I'm not too sure, I don't recall asking him.

30 Is it the case that you didn't really care to check whether or not the SNP guards were turning up on time and doing their job?---No.

That's not the case?---No.

Well, what steps did you undertake to ensure they were?---(No Audible Reply)

40 You just said that you cared about it, what steps did you undertake to ensure they were doing their job?---So, there was a check of the day sheet, the SNP tasking sheet, their sign-on book. You have the team leader there who's verifying to you that all sheet are attending today and they're there for duty, that they're supposed to be there, the SNP staff member. You have Mr McCreadie, the site manager, who attests to you that all the university, sorry, the SNP staff that should be there are there. Then after hours, you don't have a lot of capacity as university staff leave at 3.00, there are no team leaders, university cost cutting wouldn't allow us to have team leaders around the clock and you would either call in, talk to the university, the SNP team leader at night and ask them have they got a crew, full crew. In the

morning, you're in early and you're starting to visualise the team coming and going from the morning.

Or you could have used the overnight recordings to do spot checks, correct?---Well I'm not sure that, we're using that, you're talking CCTV, you're not talking access card now, you're just - - -

CCTV.---Straight to CCTV as to, as to doing that.

10 Yes, CCTV. You could have done that, couldn't you, used the overnight recordings to do spot checks?---No.

Why?---It was our belief you couldn't be using the CCTV.

Because of this advice. Is that the sole basis of your belief?---No.

Well, what else?---Our dealings with Ms Robinson.

20 I see. Another thing you could have used is the GPS trackers in the radio to do spot checks of the guards' movements, couldn't you?---Well, that comes under Mr Ledford's role, but again that's, we would treat that as workplace surveillance.

Right. On the topic of the gifts, you attended from time to time talks given by Mr Robinson in which you addressed the zero gift policy, as he called it, at CIS, didn't you?---I don't remember going to talks. What do you mean by talk?

30 He would address the staff regularly at CIS I suggest, and indicate that as far as he was concerned there was a zero gift policy at CIS, do you agree?---I don't remember being in a talk where he specifically had said - - -

Were you aware it was Mr Robinson's view that no CIS staff should accept gifts from contractors?---No.

He never told you that?---Not personally.

40 Well, did you learn of it in some other way of his view?---Well, I've seen earlier correspondence that says, from Mr Duffy and so forth - - -

So is that - - -

THE COMMISSIONER: So the issue really is whether you're aware or you weren't aware of what the university's policy was?---Yes, I wasn't probably fully aware, Commissioner.

Why?---Because there are different professional staff, there is a limit on gift those people can get, in terms of general staff, if it's a Christmas function or small gift between offices.

That was allowed was it?---Well, that was allowed but it occurred.

My question was, what is your position? Did you or did you not know of what the university policy was on the acceptance of gifts?---Not exactly.

10 MR BENDER: Not exactly. Well, were you, you knew that Mr Robinson's own policy for CIS staff was that no gifts at all should be accepted from contractors?---I didn't know his exact policy no.

You weren't aware of that?---Not from Mr Robinson.

I see. You did online training from time to time didn't you about the various policies that were in place at the university, do you remember that? ---Yes, yes, yes.

20 And do you remember completing your online training in around August 2017?---Oh, there would have been some modules, but, yeah.

So is that a yes for some modules?---Yes.

And do you remember if one of those modules was the code of conduct module?---It may have been.

Well, if you want to - - -?---No, I, if it's, I've got my name listed, yeah, I'm just, I just couldn't remember exactly which modules, but - - -

30 So is that a yes, you do remember?---Yeah, well, I don't remember, but if you're saying that I did it, then I've done it.

And do you recall that the code of conduct module included a section, section 8, prohibiting staff receiving gifts that might directly or indirectly compromise them?---Not specifically in the module but if it's listed in there, I - - -

40 But you're aware that's part of the code of conduct?---If it's in the module, I know I've done the module.

You're aware it's part of the university's code of conduct that staff must not receive gifts that might directly or indirectly compromise them, aren't you? ---I can't specifically remember it exactly under, under the code of conduct, those words, but - - -

So you never familiarised yourself with the code of conduct in your many years of working for the university?---I, I would have had a broad understanding of the code of conduct.

And can I suggest to you that you know very well that the code of conduct prohibits staff receiving gifts that might directly or indirectly compromise them?---I wasn't a hundred per cent sure on that.

10 THE COMMISSIONER: What was the position in the police service?  
---Oh, no, no gifts, Commissioner.

Why? Do you have an understanding of why they had that policy?---Well, I guess being, police are a statutory authority (not transcribable) that. Certainly nothing, the university seemed a lot more loose in many arrangements of, of how they practised a range of things between professional staff and academics and general staff. It just, I mean, it, so I opened up the fridge on my first shift and there was wine. To me, that would have been poured out.

20 In the police service?---Yeah, I mean, yeah. So I'm saying if there's a fridge and there was beer or wine in it, so I, I, the mindset is this is a different environment. So it was a lot looser.

MR BENDER: Right. Well, I suggest you didn't think it was a lot looser. I suggest you knew very well that Mr Robinson's policy was that CIS staff should accept no gifts at all, no ifs, no buts.---Yeah, I didn't know that.

Why did you give the \$1,250 back to Emir?---Why?

30 Yes.---Because that was my, my understanding I was paying for that in the first instance. It was not a gift. I was paying for that.

Well, what would have been wrong with receiving a gift?---It's, it's a large gift. No, wouldn't be receiving it.

40 In your mind it's a question of degree, is it?---I remember even reading in some of the policies there, academic staff are allowed to receive gifts up to a certain amount and, a certain amount of dollars and, but, no, my arrangement with that was that I was to pay.

So you just applied your own discretion, did you?---No.

Can I please ask that page 1 of Exhibit 35 be brought up. I'm sorry, that's not what I had in mind. I might come back to that. Exhibit 71, page 285, please. This is the response that you received from SNP in respect of the KPMG audit.---Yes.

Can I suggest that you knew that the reason it was addressed to you is because you were the primary Sydney University staff member responsible for managing the SNP contract?---No, it was sent to me because I was acting in two roles, which, it was supposed to be, would have went to the manager of the unit and we didn't have one.

So it was sent to you because you were occupying that role. Is that right?  
---I was completing two roles as best I could.

10 And after receiving this response, can I suggest that you told Mr Sullivan that, on balance, SNP had answered the concerns raised by KPMG. Do you agree?---I remember, I remember a meeting with him around that, and on balance they had answered them. However, there were a number of more in-depth issues that needed to be answered at a higher level, and he was taking that up with Mr Fisher, Mr Sierra and other people.

I want to suggest to you that evidence is totally false.---No.

20 And can I take you to Exhibit 73, page 159. Can you see under the letter C there's another letter C?---Yes.

And I suggest that that is a totally accurate statement of what occurred. Do you agree?---I suggest to you this is written after both Smith and Sullivan have left, and it's quite easy to blame people who aren't there.

So do you reject what I said?---I've never seen this document. I've never seen this response. So it's been done when we've left but it's not right.

30 THE COMMISSIONER: Sorry, done after you left? So it's created, you say, after December last year?---June.

Sorry, June, is it?---June, June, Commissioner, I left. But that would be my observation of it. I, I know Mr Sullivan was, in our discussions we could do some basic things at the front end, but he was certainly of the firm view that CIS had some issues to bring back to him.

MR BENDER: I suggest to you that that evidence is false.---No.

40 THE COMMISSIONER: When was this document created initially, do you know? You may not know.

MR BENDER: I personally don't. I can get those instructions, though. I was going to take you to your duty statement, which I think is at Exhibit 35, page 10, the relevant part. Can you see, do you recognise this as an extract from your statement of position, if that's the correct word?---Yes.

Can you see there is a section entitled Key Relationships?---Yes.

If you go over the page, please, can you see that under the heading External, one of the external key relationships is external contractors?---Yes.

And the purpose of that relationship, as far as you were concerned, I suggest, was to manage the provision of guard services at the university. That's an accurate statement of your duty at the university in respect of the SNP guards, is it not?---Yes, it's one role. It's, it's, it's an external, external contractors. Manage the provision of the guard services.

10

Thank you, Commissioner. Nothing further.

THE COMMISSIONER: Thank you, Mr Bender.

MR LARKIN: Commissioner, if I may?

THE COMMISSIONER: Yes, of course.

MR LARKIN: Sorry, Mr Smith, my name is Larkin. I appear for Mr  
20 Robinson.---Yes, sir.

I'm not sure whether Exhibit 99 can be put on the screen. If it can, could it be? Mr Smith, you were shown this email by Counsel Assisting before the lunch break and asked some questions about it. I think you agreed that you received it and understood its content, is that right?---I'm sorry, I can't hear you.

I'm sorry. You were asked some questions before lunch by Counsel  
30 Assisting about this email.---Yes.

And I think you agreed that you received it and understood it, is that right? Do you recall that evidence?---It was an email. I, I probably would have got it, but certainly not from Mr Robinson. I don't think he was there (not transcribable) but I stand corrected. He may have been, but - - -

No, please attend to my question. You agreed in answer to a question asked by Counsel Assisting that you had received this email. You said that, didn't you?---If it was a university or staff email, I would have, would have got it.

40 You said also that you understand that you were in breach of it, is that right?---I can't recall saying I was in breach of it.

You now understand that you were in breach of it. You were - - -?---I couldn't recall saying I was in breach of it, no.

But you were asked directly about whether you had contravened the policy referred to in this email, if my memory is correct.---Oh, okay, rightio, sir.

And I suggest to you that you do understand that you breached the policy referred to in this email. That's right, isn't it?---Yes. It would have been, yes. Yes, sir.

You also, if I recall correctly, told Counsel Assisting that the director referred to in the last sentence of that email was Mr Robinson, correct?---I, I couldn't recall saying that but - - -

10 Well, you understand that's what it refers to, don't you?---It refers to the director of CIS. I don't know if he was there in 2014 but, well, I don't know if he was there in - - -

You don't know if he was there in 2014?---I'm not sure if he was there in 2014. I just can't recall. I know Louise Wagner but I, I'm not sure who the director was then. I can't recall. He may have been.

Is that a serious answer?---He may have been. December, 2014. He probably was, he probably was.  
20

And you see it says, the email says that he reiterated that all CIS staff cannot accept gifts and entertainment of any value. See that?---Yes.

And you understood that at the time that you received this email, didn't you?---I would have read it, sir, yes.

It's even bolded for you, isn't it?---Yes.

30 After lunch, ten or fifteen minutes ago when counsel for the university asked you some questions, you resisted the proposition initially that you understood that CIS had a policy that no gifts of any value were to be received.---Yes. I - - -

Do you recall that?---Yes, yes, yes.

Was that evidence truthful evidence?---Well, I, again, I was thinking small value, this says no, any value so, I would have read it.

40 Is the effect of that that you wish to withdraw the evidence that you gave in answer to counsel for the university a short time ago, concerning your state of knowledge of the CIS policy, is that right?---Well, I'm refreshing my memory here of this document, so yes.

It is plain that you understood, at all times, that it was CIS policy, that CIS staff were to receive no gifts any entertainment of any value from providers of goods and services to the university, that's right, isn't it?---I would have read this in 2014, if I've read it and I (not transcribable)

Is the answer to my question that you understood at all times that there was such a policy within CIS?---There appears to have been, yes.

And you knew, I don't think I necessarily need to take this very much further, but Mr Smith, there was never any doubt in your mind about the impropriety of accepting gifts from SIG or SNP or any of the contractors, that's right, isn't it?---There was a mix around Christmas, everybody in the office, you've got contracted staff who work with you every day of the year.  
10 They're, they're, they're part of the office environment. So, you know, those lines get a bit blurred in terms of a Christmas exchange and so forth.

Were you aware that there was a practice within CIS that if gifts were received unsolicited, at reception they were returned and the policy explained to suppliers? Were you aware of that?---No.

I don't think I need to add anything, Commissioner. I think the ground's been covered.

20 THE COMMISSIONER: Thank you.

MR COLEMAN: Commissioner, can I just, with your leave, ask a couple more questions that I should have asked?

THE COMMISSIONER: Sure.

MR COLEMAN: Mr Smith, I'm sorry you have to answer my questions again but I just want to ask you some questions about the issues, you remember we were talking about the email to Mr Roche, when SNP was  
30 going to terminate SIG?---Yes.

And you were concerned about the time it would take to get staff to fill roles in the control room, correct?---That's part of it, yes.

Well, and staff to fill other roles to be properly trained?---Experienced staff is the issue, sir.

And that's based upon an assumption that none of the existing SIG staff who were there, would have stayed on at the university. Is that right?  
40 ---Sorry, just say that, sorry - - -

Yes. Your concerns would be on the basis of an assumption that none of the SIG staff who were there and were trained and doing the roles would have stayed with the new operator or indeed been employed by SNP, that's right, isn't it?---Or been re-employed with SNP, you mean?

Or been employed. So there was at least the possibility, wasn't there, that the staff who were employed by SIG, performing the roles that you were

concerned about, would have stayed on-site even though SIG's contract had been terminated and been employed either by the new subcontractor or by SNP?---There may have been a couple but the majority were indicated that they would go.

THE COMMISSIONER: What, they'd rather be unemployed?---No, they would go knowing this fella would probably get them work on other sites, Commissioner.

10 MR COLEMAN: But SNP was going to terminate, not only the Sydney University operations for SIG but every other operation that he had subcontractor to SIG, to your knowledge. That's right, isn't it?---So that - - -

It wasn't only Sydney University that SNP were going to terminate SIG's services for, was it?---Yes. Oh, well, I don't know if he just had SNP contractor though, but we spoke to some of the guards and they'd indicated they would go.

20 You are just making that up, aren't you?---No. No. We spoke to some of the guards and they would have said they would go.

Did they, all right. And face the risk of having no work or the uncertainty of having no work, is that what you're saying?---I don't know about their personal position but - - -

But on the assumption that some or all of the guards may have stayed, either being employed by SNP or the new contractor, the concerns that you expressed in your email to Mr Roche wouldn't have been valid, would they?---Yeah, well it's a superfluous argument because we didn't know, the risk was we didn't know this was an immediate risk, Mr Coleman, an immediate risk if they went.

THE COMMISSIONER: Actually I'm not quite sure of the situation. When the SNP contract continued after the Commission had executed warrants, do we know whether the relationship with SIG continued?---No, that stopped, Commissioner.

40 And was there a shortage of guards?---So, Multiworks came in, the nominated provider, we lost 600 hours of guarding, they couldn't fill shifts, important shifts in the first 12 weeks. I, I left pretty much straight after that. So that was the kind of example I was trying to get across to people about the, the issue and it, and it happened. So the 600 hour, forgetting what we know now, Commissioner, but there were 600 hours there that couldn't be filled by a manager and/or people on the ground in 12 weeks.

Thank you.

MR COLEMAN: Yes, thank you, Commissioner.

MR BENDER: With your leave, Commissioner, there is one very, very short matter that I also neglected to ask about the same email.

THE COMMISSIONER: Yes, that's fine. You go ahead.

10 MR BENDER: Thank you. Mr Smith, could Exhibit 36, page 340 please be brought up on the screen. You're familiar with those emails, I take it?  
---Yes, yes.

You suggested in your evidence that Mr Hardman had had some input or somehow approved one or more of the two emails you sent. Do you remember giving that evidence?---When you say the two emails, there one email to Mr Roche.

20 Right. And you said that Mr Hardman had some input or approved that email, didn't you? Do you remember giving that evidence?  
---Yes.

That's not true, is it?---Yes. He, he gave me approval to go and write the email.

THE COMMISSIONER: Thank you. Anyone else? No, just leave, Mr Givorshner, is Mr Sandel here? Sorry to catch you unawares, or calling you unawares I should say.

30 MR SANDEL: Yes, Commissioner.

THE COMMISSIONER: I'm minded to allow Mr Smith's counsel to talk to him for the purposes of re-examination, loosely so-called, prior to your client, sorry, Mr Givorshner asking his questions. I do that because I'm just concerned about timing.

MR SANDEL: That's understood, Commissioner.

THE COMMISSIONER: Have you got any objection to that course?

40 MR SANDEL: No, I don't.

THE COMMISSIONER: All right. So, Mr Mackay, I'm not asking you to go now. I think what we'll do is let your client go for today but he's going to have to come back on Monday.

MR MACKAY: Okay. Well, can I ask for indulgence, Commissioner, could we make it 2 o'clock just because I have a matter in the Court of

Criminal Appeal, a judgement which may, depending on the result may need to make an application.

10 THE COMMISSIONER: Right. That's fine. That's fine. There's no problem with that at all. There's one matter I should have raised, and you can seek instructions from your client. I mean the overall impression I have from is evidence or the effective of his evidence is that his relationship with Sirour, to the extent there was one, Balicevac, Lu and McCreadie was all above board and that he at all times acted in the interests of the university.  
That's the impression I have of what he's been saying. I've become aware that there may exist, and I put it no higher than that, one or more audio recordings of conversations between your client and Mr Sirour, and it's likely, although I don't know it's a fact, that those conversations were recorded unlawfully, if they exist. Now, I've come to no concluded view at the moment on this, but it may be that the Surveillance Devices Act prevents me from listening to those recordings, if they exist, unless your client consents. Now he's under no compulsion to do so, but would you seek instructions from him as to whether he's prepared to allow Commission officers to do that?

20

MR MACKAY: I will seek my client's consent. Is it possible that we could listen to them before - - -

THE COMMISSIONER: Say again?

MR MACKAY: Is it possible we could listen to them before? We're working in the dark because I don't know what's on the tape.

30 THE COMMISSIONER: I don't either, I don't even know if they exist, I just have reason to believe that they do.

MR MACKAY: Are we able to get a time when they might be just so that we can get some instructions?

THE COMMISSIONER: My problem is that I haven't decided one way or the other whether I can listen to them.

MR MACKAY: Yes.

40 THE COMMISSIONER: But it's just that some material has been produced that nobody has accessed but I have reason to believe that it may contain that sort of material, and I think your client, if he is going to consent, he's got no obligation to do it, but if he is going to consent he won't be hearing what's on them before that happens. All right.

MR MACKAY: Thank you.

THE COMMISSIONER: Thank you. So you can go now, Mr Smith, thank you.

**THE WITNESS STOOD DOWN**

**[3.43pm]**

10 MR ENGLISH: Commissioner, how did you want to deal with the rest of the day? We can call Ms Willard.

THE COMMISSIONER: Is Ms Willard here?

MR ENGLISH: She is, she's up the back I believe.

THE COMMISSIONER: Come forward. Yes, I think we should just go till 4 o'clock. Just remind me, who appears for Ms Willard?

20 MR ENGLISH: She's employed by SNP as the national scheduling manager of protective services.

THE COMMISSIONER: Yes, but who appears for her?

FEMALE SPEAKER: Mr Christopher J. Watson.

THE COMMISSIONER: Sorry?

FEMALE SPEAKER: Mr Christopher J. Watson.

30 THE COMMISSIONER: Mr Christopher G. Watson. All right. Thank you.

MR C. J. WATSON: I appear.

THE COMMISSIONER: Okay, thank you.

MR C. J. WATSON: Watson, C. J.

40 THE COMMISSIONER: Now, Ms Willard, will you take an oath or an affirmation?

MS WILLARD: Yes.

THE COMMISSIONER: What, oath or affirmation?

MS WILLARD: Oath I think, yeah.

THE COMMISSIONER: Thank you. We'll do that now, thanks.

THE COMMISSIONER: Thank you. Take a seat. Does your client seek a section 38 declaration?

MR C. J. WATSON: Yes.

THE COMMISSIONER: And you've explained its effect to her?

10

MR C. J. WATSON: I have.

THE COMMISSIONER: I might just say a few things myself, Ms Willard. I'll just explain, and if I'm repeating anything that your counsel has said, I apologise, but I do want you to understand what your right and obligations here are as a witness. As a witness you must answer all questions truthfully and you must produce any item that I require you to produce during the course of your evidence. The effect of making the section 38 declaration that I've just discussed with your counsel is that although you must still  
20 answer all questions put to you or produce any item I require you to produce, your answer or the item produced can't be used against you in any civil proceedings or, subject to two exceptions, and one may not apply to you and I'll cover that in a moment, in any criminal proceedings. Where are you currently employed?---SNP.

Okay.---Yeah.

30 So, all right. So we only have to worry about one exception, and that is that the protection you get from a section 38 declaration does not prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, most importantly an offence of giving false or misleading evidence. To give false or misleading evidence to the Commission is a very, very serious matter, it's a serious criminal offence for which the penalty can be imprisonment for up to five years. Do you understand that?  
---I do.

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

**PURSUANT TO SECTION 38 OF THE INDEPENDENT  
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT  
ALL ANSWERS GIVEN BY THIS WITNESS AND ALL**

**DOCUMENTS AND THINGS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

10 THE COMMISSIONER: Mr English.

MR ENGLISH: Thank you, Commissioner. Could you state your full name for the record, please.---Linda Kim Willard.

You've made two statements have you not, Ms Willard, one dated 28 November, 2018, and one dated 19 December, 2018, in this matter?---Yes, I did.

20 Commissioner, I tender those and perhaps as separate exhibits, the first one being 28 November, 2018.

THE COMMISSIONER: That will be admitted into evidence and marked Exhibit 104.

MR ENGLISH: Oh, I'm sorry, I'm told they've already been tendered.

THE COMMISSIONER: They are. Okay.

MR ENGLISH: I should have made an exhibit number of it.

30 MR C. J. WATSON: Yes, it's 60.

MR ENGLISH: 60. I'm gratefully assisted.

THE COMMISSIONER: All right.

MR ENGLISH: Exhibit 60.

THE COMMISSIONER: Thank you.

40 MR ENGLISH: Thank you. If that can be brought on the screen, please. 59, 59 I'm sorry, Commissioner. Okay. So this is your statement of 28 November, 2018, you can see on the screen?---That's correct. Ah hmm.

I'm just going to ask you some questions in relation to some of the matters you raised. You say, "I'm currently employed as the national scheduling manager, protective services." And then we go over the page if we can to paragraph 4. "In my current role, the national operations centre manager, Domenic Giardini, reports to me and the NOC reports to him." What's the

national operations centre?---National operations centre, we renamed that. It basically is a combination of the rostering staff, day staff, they do rostering, and then at night, we've got 24/7 service, is night shift managers, they do backfilling, so we'll have probably a minimum of two people in the office that will stay on the phones, and if anybody calls in sick they will man that, and then we have another two people who go out on the road and audit. So that's the national operations centre, and quite recently we've taken on the despatch function as well, which is the, called the NPR, which is the handful of people that actually look after the patrol response. It's all in one room as such, yeah.

Okay. So you oversee the national operations centre from a higher level, "And part of my role is to ensure that contracts are still profitable."---Mmm.

Now, what do you mean that contracts are still profitable, obviously you're saying that you want them to make money - - -?---Yeah.

- - - but what are you doing to ensure that contracts are making money for SNP?---Okay. So basically what would have happened, I don't actually currently do that much, but what I would do is, I would be shared, I used to be shared the site profitability report, so I would focus on sites where we were making losses and then I'll investigate why. And there can be numerous reasons why, it could be too much, maybe no charge, cost training no charge, it could be we're using, you know, casuals and permanent lines and we should make them full time, we could be high in overtime costs as well. So I would actually focus normally on those that weren't making profit and just trying to figure out, you know, what can we do to rectify, you know, the issue that we may have.

30 There's been some evidence about a policy. It's been described in the evidence before the Commission as an unwritten policy in respect of SNP trying to avoid – I'm trying to do it justice – trying to avoid the payment of overtime.---Yes, but it wasn't a written policy.

40 What can you tell the Commissioner about that policy?---Now, I don't know much about it. I did notice in 2017 that that arrangement was occurring at the university, Sydney University, and the arrangement being that we have direct employees also working for SIG, so for a subcontractor, so any additional hours. It's definitely not a common practice in, in SNP at all. At the time I was quite surprised. I asked the current or the previous NOC manager, you know, what is this? Why do we have them working for both? And he just said to me it's been the arrangement for a very, very long time. So, but it isn't a common practice at all, no. I was surprised.

THE COMMISSIONER: Am I right in thinking that in having that practice it would be very hard to keep track of whether particular guards were working excessive hours?---Definitely, definitely. That was our problem in the rostering office. That's what the guards were complaining with because

they'll have two separate employee numbers. They would have a 5-5 number, which is a subcontractor number, and a 1-0 for direct employee. So there could be a potential for missing it.

Yes, thank you.

10 MR ENGLISH: Did you say that it wasn't common throughout all contracts? You mentioned SIG. Was that your understanding it wasn't a policy that applied throughout SNP?---It's my understanding but in, you need to remember my background. Can I go through that?

20 Sure.---I started in 2007 as a payroll manager and then up to about 2013 so all I saw was the payroll as such. I wasn't involved at all with subcontractors. So if it was a more common policy back then, I truly wouldn't know. I dealt with direct employees only. Then in about 2013 my role changed, I was asked to help implement the rostering system, so I worked more in the IT environment. So that's when I brought Microster in so, it's only in about August 2016 that I, for the first time actually was placed in the protective services area overseeing the national operations centre. So within my role I can truly say, and I'm confident on that.

So Microster, does it have a function whereby it can detect if someone's worked a number of hours that are in excess of fatigue limit requirements under the relevant award?---Definitely.

Okay. If you've got staff, and I think you mentioned some have a 5-5 number some have another number.---Correct.

30 So if you've got staff with two numbers in the system, what checks and balances is there in the Microster system to make sure that staff don't work more than, well, don't work a total number of hours in excess of fatigue limit requirements by breaking those shifts up between SNP and whoever the subcontractor might be?---Okay, in that scenario, you can only eyeball it because, unfortunately, because and as I said, the only one that I was aware was at Sydney University of that happening, the only way that you could tell is making sure that you look for the names but it had a flaw in it, a substantial flaw.

40 THE COMMISSIONER: Look for the names where?---Well, in the rostering system, you have to follow it through, but the person doing the time sheets should, you hope, be able to pick it up but there is a flaw in that process, yes.

MR ENGLISH: Now, I just want to draw to your attention a clause in what appears to be a standard clause in a SNP security contract for employees. It's Exhibit 35 and if we can go to page 261 please. This is a contract of Mr McCreadie from 23 September, 2015.---Yes.

If you see it says, "You must advise the company of any conflict of interest during your employment. You must not be employed or engaged outside company without notifying company in writing before commencing such work. If such work is in conflict with your duties or competitive with and/or contrary to the interests of the company, you must obtain written authority of the company." Do you see that?---Yes, I do.

This policy, and I appreciate that you said to your understanding it only applied at Sydney University.---Yes.

10

Do you understand that under that policy there was any requirement for guards, notwithstanding that clause 9, which the evidence in this case says was a fairly standard clause in SNP contracts - - -?---It is.

- - - was there any requirement for staff to get approval before they did their overtime through the subcontractor to your understanding?---I have no knowledge on how this was instigated. So, no, I couldn't, I couldn't truthfully answer you that I know that they got permission to do it or who started this practice.

20

Mr McCreadie gave some evidence, he said that clause 9 was standard to his knowledge and he said that he thought it didn't really apply, but if it was ever raised, I asked him if staff applying to work for subcontractor would be routinely approved if it was ever raised and he said, "It was never, as a security guard wanting to do that, it was never a formal process. There was never, there was never a process whereby a security guard would send an email or put something in writing and send it off to the office and ask permission to do it. They'd just go ahead and do it." Does that accord with your understanding of the practice in relation to that policy where it applied?---If he says so, I really have no knowledge of that, I don't know what they communicated to their security guard at the time of putting this practice into place.

30

Okay. There's some evidence that, do you know Frank Lu?---Well, I don't know him.

You've heard of him?---I've heard of him and I saw him on live stream, yes.

Okay. There's evidence that Mr Lu had on the Microster system a Frank Lu 1 and a Frank Lu 2.---Yes, correct, yes.

40

Is that true to your understanding?---Well, that would be his 5-5 number and his 1-0.

I see.---So he's work as Frank Lu for us direct and he would do his additional work, that's what I would assume that Frank Lu 1 and Frank Lu 2 means.

But couldn't on the Microster system, couldn't you then tell if, because it's Frank Lu 1 and Frank Lu 2 it would be pretty easy to tell if he's worked in contravention of a fatigue limit requirement because you could just count the hours of Frank Lu 1 and Frank Lu 2's done?---Yes, you can, I'm saying, I didn't say that you can't, it's just more difficult. Because what would happen is that Frank Lu 1, which is under direct employee, would work at a certain site and you'd pick his additional, from the rostering system you'd pick his additional hours probably up on ad hoc work and that's on a different site so you'd have to open both sites up together, so multiple sites up together and make sure that that he doesn't contravene it, yes.

You spoke of a 5-5 number before. I got the impression that perhaps employees are recorded in the Microster system using a number rather than a name. Is that right?---Number rather than no, than name.

Couldn't you run a report, if it was just Frank Lu 1 and Frank Lu 2 to show all the different shifts in one week that Frank Lu 1 and Frank Lu 2 have done and analyse that?---You could run a report like that but it's the 5-5 number, the Frank Lu is the same, the same Frank Lu name but it'd be 5-5 and a 1-0 as a direct employee, and then you'll have to look for the names because obviously they're not the same number.

Now in relation to subcontracting, there's some evidence of the bills that were provided by SIG to SNP and there was an invoice and then there was essentially a schedule that followed with a number of guards' names and the hours they worked and the tasks they performed essentially.---Yes.

Does SNP do any analysis of subcontractor invoice of that nature to see whether the guards that the subcontractor is advising have performed the work are breaching any fatigue limit requirements?---No, we, the analysis, basically when you put their name into the system, that's when the system will actually advise you. We've got a couple of things in Microster, we've got a consecutive day counter, so on the shift it numbers it 1, 2, 3, 4, and then when you have a day off, it starts again the next shift starts at 1. So that's one way you can visually can see it in the system. Another way is it's got a hard rule break, that it's seven days, but you can't -- well, not you, I can, but normal rostering officers with their normal access cannot put the seventh day in. So there's a whole escalation process around that. So that stops you physically. You also get meal breaks in the system.

I think maybe I asked a poor question.---Okay, maybe.

If, for example, a subcontractor provides its identification list of who worked that day from its guard force, notwithstanding that those people aren't SNP employees, they work for the subcontractor, do they still get entered in to Microster?---Yes, yes. They do.

Oh, I see. So you can perform the same analysis with the subcontractor's data?---Exactly and that's how we found fatigue breaches, exactly that.

And if the subcontractor's deceiving you putting false names in to time sheets and/or in to its invoices, well then the Microster system just falls apart, does it?---It does, yeah.

10 MR COLEMAN: That's a bit unfair. The terminology was a bit emotive perhaps, falls apart. It doesn't - - -

MALE SPEAKER: Is ineffective.

MR COLEMAN: Well, not even - - -

MR ENGLISH: I'm not suggesting it has a software malfunction.

MR COLEMAN: Well - - -

20 MR ENGLISH: But it does, I mean obviously - - -

THE COMMISSIONER: It doesn't do what it should do?

THE WITNESS: It won't work.

MR COLEMAN: It performs the functions that it's designed for.

THE WITNESS: Yeah, yeah. It won't work.

30 MR COLEMAN: Well - - -

MR ENGLISH: Thank you for the tip-off on your submission. Now, you say at paragraph 7, if we can just go back to exhibit 59, that at Sydney University, the site operated completely independently of the rostering officers in the national operations centre.---Yeah. Is that – sorry, that's fine.

THE COMMISSIONER: It's not up yet, there - - -

THE WITNESS: Okay, number 7.

40 MR ENGLISH: So I'm looking at paragraph 7.---Yep. That's correct.

Why was such control given to Mr McCreadie and his team in relation to rostering?---Okay, again, I'm going to say on my assumptions because I, I was only in this role from 2016, and this has happened prior to that but I believe it probably made it a lot easier. Daryl McCreadie is a very senior person, very well respected within SNP. He's an account manager, so he was actually on the site. So he was basically, you know, given that kind of full control of his senior position and the other reason for it is that it's a very

big site. He had, him and Emir would have the site knowledge so it would be easier for them to move the guards around to, for, a, a sick leave so I, that's my assumption, it's been going like this for many years. It worked well on the surface.

And what was your understand at the time, just say a request for tender for ad hoc services came in. Do you know what I mean?---Yes, I do.

So extra guarding hours beyond the contract.---Yep.

10

And if McCreadie had to obtain guards from the subcontractor, SIG, what did you at the time believe was the method by which he was ensuring that occurred?---Well, he either emailed or called them.

So SIG - - -?---SIG, yeah.

So you thought he'd email and call them and then who's be responsible for rostering those guards from SIG to fill these shifts?---He would be.

20 McCreadie?---McCreadie, yeah.

I thought you have spoken of some surprise when you learnt that Frank Lu was responsible for rostering SIG guards to perform shifts.---Oh, okay. Well, okay, let's go back. So if there was an RFS, Daryl McCreadie or Emir took full control of it, right. So they would organise the guards. I'm not too sure how they would. Look, I'm not in the national operations room, I don't deal with it on a daily basis. I, I did speak to my staff quite a lot about this after everything came open but I, I know that they would send me RFSs. I think I just assumed that that they, they would organise it and, yes, I, I did talk about Frank Lu. He was organising the rostering itself but I, I believe it's Daryl or Emir that would contact SIG. Like, to organise the guards for an RFS.

30

Well, they'd have to, Daryl or Frank or Emir, they'd have to have some role in liaising with SIG- - -?---Absolutely, yeah, correct.

- - - about the guards that SIG said were available to perform shifts, isn't that right?---That's correct, yeah.

40 So, I mean, obviously there's different levels of management or responsibility one can have over that rostering process but you'd agree that McCreadie, Lu or Balicevac, as SNP employees had to liaise with people from SIG in relation to the rostering of SIG guards at Sydney University? ---They had to because that's how, that's how it was organised.

Yes. The system wouldn't have worked otherwise, correct?---Well we could now look at it and say what could we do different in hindsight but, yes, at the time, that's how the system worked, yeah.

Is that a convenient time, Commissioner?

THE COMMISSIONER: Certainly. I'm sorry, you're going to have to come back.---Okay.

I'll adjourn until 9.30 on Monday and, yes, we'll continue your evidence then.---Thank you.

10 Thank you.

**THE WITNESS STOOD DOWN** [4.05pm]

**AT 4.05PM THE MATTER WAS ADJOURNED ACCORDINGLY**  
[4.05pm]