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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 WEDNESDAY 27 FEBRUARY, 2019

AT 9.30AM

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

MR ENGLISH: Commissioner, if we can continue with Mr Roche, and my learned friend Mr Coleman might want to address you, Commissioner.

MR COLEMAN: Yes, Mr Commissioner, yesterday you asked some questions about who holds the master security licence.

THE COMMISSIONER: Oh, yes.

10 MR COLEMAN: I can tell you what my instructions are, and if you want we can provide documentation. The licence is issued to Sydney Night Patrol and Inquiry Company Pty Ltd, trading as SNP Security and PSI Corporate. The nominated person is Mr Thomas John Roche since August 2013, and there are other close associates and I can name those people if you wish.

THE COMMISSIONER: Oh, no. There's no need. Thank you.

MR ENGLISH: If Mr Roche can come back to the witness box, please.

20 THE COMMISSIONER: Thank you. Come forward. I might have you re-sworn.

MR ENGLISH: Thank you. Mr Roche, yesterday I showed you a document, it was Exhibit 108. It was about Kerem Akkan and it said that he worked I think 100 hours in one week. Do you recall that?---I do.

10 I understand you've -- I withdraw that. Ms Willard made some enquiries in relation to Mr Akkan, is that right?---Yes, well, yeah, that's right.

In relation to that particular week?---That's right, yes.

And some documents are going to be produced, I understand, by either your lawyers or Ms Willard's lawyers, which perhaps is suggestive that that was over a two week period, rather than one week, is that right?---That's correct.

You don't have those documents in your possession now though?---No, I don't.

20 I just want to show you three documents on the screen and then ask you a question. I'm going to try and do this as quickly as possible so you can get away.---Sure, okay.

Can Exhibit 58, page 12, be brought on the screen, please. This is the statement of Mr Giardini. He's the national operations centre manager, is that right?---Yes, he is, yes.

30 Can you just read to yourself paragraph 40 and just what I want you to focus on is Mr Giardini's understanding where he says, "At the time at least, this was communicated to me that this was to reduce the SNP overtime bill." Just so you've read that particular portion of paragraph 40.---Yeah, I have.

If I can ask, have you read all of that?---I've read down to that bit, yes. Do you want me to keep going or - - -

Yes. Just read the whole thing.---Okay, I've read that.

40 Can Exhibit 59, page 6, be brought on the screen, please. This is Ms Willard's statement and she's the national scheduling manager for protective services, is that right?---That's correct.

Can you just look at paragraphs 21 and 22, please.---Okay, I've read that.

And I'll now ask if transcript page 332 can be brought on the screen from this public inquiry. This is the evidence of Mr McCreadie. Can you look, please, from line 11 through to line 26 where Mr McCreadie responds to questions asked by the Commissioner.---Do I read the entire page or - - -

No, no, no. Just up to line 26.---Okay, I've done that.

Mr Kevin Peters, he was the national general manager, Mr McCreadie says, in 2010. Is that right?---That's correct.

Is he still with SNP?---No. He left 2015/2016, he retired.

And Mr Gavin Ward, who Mr McCreadie refers to as the HR advisor or the HR manager in 2010. Is that right?---That's right, yes.

10

Is he still with SNP?---No, he's not.

When did he leave?---He left, probably '16.

So over the course of your examination, you've been taken to evidence of the following persons as to their knowledge of the directive for SNP staff to perform overtime at University of Sydney through SIG. I've taken you to the security guard, Lina Chami, you remember that?---Yes, I remember that.

20 The 2IC, Balicevac?---I remember that.

The site managers, Aaron Lucas and Daryl McCreadie?---Yes.

The national operations centre manager, Domenic Giardini?---Yes.

The national scheduling manager of protective services, Linda Willard?
---Yes.

30 And I've just shown you McCreadie's evidence that the HR manager, Mr Ward, and the national GM, Mr Peters, were also aware of that practice. You see that?---According to the statements, they were aware of the practice, yes.

Now, against that body of evidence, which also includes the, do you remember the "maximise the margin" email I showed you?---I do that, yeah, I remember that.

40 Do you maintain your position that you did not find out about this directive or practice concerning overtime payments at the University of Sydney until the KPMG report in July, 2016?---I maintain I was not aware up until that point or thereabouts. So the KPMG report and Daryl's email was a week apart. It could have been so close that I thought I read it directly in the KPMG report.

Does it concern you at all that so many people seem to have an understanding of this practice but you appear to have been left in the dark until 2016?---I oversee an operation that is over 300 million. This is

isolated to one site and to two very small sites in regional New South Wales. It's not a practice that occurs in any other site that we have within SNP.

10 What did you do, as the managing director of SNP, to stop the practice or direction when you learnt of it in around July of 2016?---When I, when I refer to the KPMG report, I saw it was happening on a few occasions. I didn't look beyond that in terms of, I remember having a conversation with Daryl in relation to the nature of the report but he indicated to me that he was working through it, prepare a report for, for Sydney University that was then handed over to our general manager of people and partner strategy, and I told him to put the report together.

Is the answer to that question then nothing, you did nothing?---It, it wasn't highlighted as a, as a significant problem. It was a handful of shifts.

I want to suggest - - -?---In, in hindsight, I should have taken action on it. I think also, the point is that Linda, various people found out about, found out about this at various times.

20 I want to suggest that your evidence to this Commission demonstrates the following in respect of the period from September, 2015 to April, 2018. Firstly, that there was no analysis by SNP of the legality of the subcontractor hourly rate charged by SIG in respect of the University of Sydney, do you agree?---We didn't do analysis, no.

30 Secondly, there was no compliance checking performed of SIG's guard numbers as compared to the total number of guards identified in SIG's workers' compensation certificates of currency. Do you agree with that?---I agree that the numbers were understated.

And there was no checking of those numbers internally by SNP.---The checking, the process I imagine that was followed was that the individual would have contacted Daryl at the university and he would have been instructed in relation to providing information.

40 Well, I think you agreed with me yesterday in relation to that proposition at transcript page 1125.5, but that's just for the record. The third proposition is this. Until 1 September, 2017, there was nothing done to manage SIG as a supplier, notwithstanding that it was supplying over 2,000 hours per week of guarding services to SNP. Do you agree with that?---I don't agree with that. There was regular meetings going on at the university in relation to their performance, and all those meetings were indicating that they were performing very well.

Fourth proposition is this. There was insufficient rigour applied to the supervision of McCreddie and his team at the University of Sydney. Do you agree with that?---I agree that when you have a number of parties that are colluding, normal processes do not work.

Do you agree that the matters I have just referred to show that for the period from September 2015 to April 2018, SNP's supervision and compliance monitoring of SIG as a subcontractor was inadequate?---I think if, if you, the vast majority of their work was being undertaken at Sydney University, right? The major feedback we get from a client in relation to how we're performing is the feedback we're getting from the client. Dennis outlined in his email to me we hadn't had a KPI since 2015. I was attending the site two to maybe three times a year, getting very positive feedback in relation to the performance of the people. As I said, when you've got the collusion on our employees and university employees, normal processes do not apply.

What can you say, if you think you need to, to assure the general community that issues such as these that I've just raised with you have been rectified within SNP such that the community can have confidence that they will not be repeated?---This has been isolated to one job. You know, we're a very large organisation and we had a situation where we had various parties on site for their own reasons colluding for their own benefit. It is very difficult to monitor that when you've got all the gatekeepers leaving the gate open.

Commissioner, I'd just like to tender now a schedule of invoices from SNP to the University of Sydney for non-standard services for guarding. If I can hand up two, perhaps one copy of that, have it tendered and brought on the screen.

THE COMMISSIONER: Yes, that summary will be admitted into evidence and marked Exhibit 131.

30

#EXH-131 – SUMMARY – INVOICES FORM SNP TO USYD (NON STANDARD SERVICES – GUARDS)

MR ENGLISH: Mr Roche, this is a document not prepared by anyone from SNP but rather here at the Commission and it summarises the invoices provided by SNP to the University of Sydney for non-standard services. Do you see that?---I see that, yes.

40 From December 2015 through to March 2018.---Ah hmm.

And do you see the total numbers there? I think there's a GST figure and a non-GST figure of 2.65 million and 2.915 million. Do you see that?---I see that, yes.

Would you have any reason to doubt the accuracy of those figures?---Based on what?

They're based on, it's a summary of invoices provided by SNP to the university.---No, I don't.

I'm wondering now if volume 1A, page, I think it's 25 can be brought on the screen, please. While that's coming on, SIG was subcontracting to SNP in respect of sites beyond just the university, that's right, isn't it?---85 per cent of the work was being done at the university.

10 This document is a summary of credits received in SIG's bank account from SNP Security. Do you see that?---Yeah, I see that, yes.

From 7 December, 2015, if we go over two pages, you can see until 16 April, 2018 the summary shows that the total credits from SNP Security amount to \$7.101 million, do you see that?---I see that, yes.

Again, appreciating this isn't your document, would you have any reason to doubt the accuracy of that total?---It's just not my document, no, but I don't have a reason to doubt it.

20 Thank you, Commissioner. That's the examination. I'm told I can tender now Exhibit 1A if that please the Commission as well.

THE COMMISSIONER: Tender 1A?

MR ENGLISH: Sorry, volume 1A, if that can now become an exhibit.

THE COMMISSIONER: I'll mark that Exhibit 132.

30 **#EXH-132 – PUBLIC INQUIRY BRIEF – VOLUME 1A – FINANCIAL**

THE COMMISSIONER: I'll just remind you, Mr English, if you can, when did Mr Balicevac leave the employ of SNP?

MR ENGLISH: I think December 2018, but I don't have a clear recollection of his evidence on that point.

40 THE COMMISSIONER: Mr Roche, were you aware that the Commission executed search warrants at the university on 18 April?---I was, yes.

And did you have an understanding of what it was the Commission was investigating?---I did, I did. I think it led to what our suspicions were, that there was something untoward going on, and that's why we acted to move SIG from the site.

Did you have any concerns that any SNP employee might be involved?---I spoke to Daryl shortly after it occurred, I got him into the office, he sat in front of me and denied any involvement with it. He told me that he had done a small bit of work with SIG. They were a larger organisation outside of SNP and he'd assisted them in putting together a bid for a job and he said, "That was the extent of my involvement and he, I paid a small sum of money for that," and then we removed Daryl from the site.

10 And when did you first become aware of it all, that Mr Balicevac may have been involved?---I really didn't know him that well until after ICAC had come on-site. He continued to work on-site. He, I always had a feeling that, you know, as it became more apparent what was going on, that he would, that various people would need to be involved. You know like, the fact I'd got the email from Dennis, clearly saying leave the contractor on-site, you know, I started to think that, you know, obviously it was broader than just the group, you know, our people and, and, and Daryl.

Yes, thank you. Any questions from others?

20 MR ENGLISH: Commissioner, I should just indicate, Mr C. J. Watson has just provided me with a copy of the Kerem Akkan roster. I'm just going to perhaps look at that with my instructing solicitor, Mr Baine, before it's tendered but I don't withdraw my statement that it will be tendered at some stage but I'll just state for the record it's been provided now.

MR COLEMAN: I would like to go, if I can, second last and then, as we raised with Counsel Assisting yesterday, Mr Givorshner and I would like to have a chance to have a brief chat with Mr Roche before we do ask some questions, if that's convenient. I imagine it will only take 10 minutes. We
30 raised that yesterday, and I'm not criticising my learned friend, he didn't want us to do it before his examination was complete, but that would be the application.

THE COMMISSIONER: You want me to adjourn for 10 minutes?

MR COLEMAN: No, no. I'd like the others to finish and then we'll -- as happened with Mr Smith, I think.

THE COMMISSIONER: Yes. Who's the next witness?

40 MR ENGLISH: Either Mr Sullivan or Mr Vitanage, I think. Both are up the back. Probably Mr Sullivan because he'll be shorter.

THE COMMISSIONER: Yes. And then who follows?

MR ENGLISH: We're looking at trying to put on Mr Owens because he'll be short as well and he's a private citizen, and also Mr Swadling, who can

only be here today. So I apologise to Mr Vitanage at the back, who might be waiting a bit longer than he thought.

10 THE COMMISSIONER: All right. Mr Givorshner, when the examination of this witness has concluded, I'm not minded to release him from his summons yet (not transcribable) go. I'm just a bit concerned that something may arise today that he will need to respond to. I'm not saying it will, of course, and I have no trouble with him getting out of here as soon as we've finished, but that's my position unless you want to say something else to me on it.

MR GIVORSHNER: It's a matter for you, Commissioner.

THE COMMISSIONER: Thank you.

MR GIVORSHNER: But we'll see what happens.

THE COMMISSIONER: You're welcome, thank you.

20 MR BENDER: Mr Roche, my name is Bender. I appear for the University of Sydney. As at 2015, when SNP submitted its response to the university's request for tender, did you regard the university contract as a large and important one for SNP?---I did, yes.

How frequently would SNP tender for a contract of that size?---Sydney University would be in our top eight contracts.

30 So how frequently? - - -?---So typically those contracts come up every five years.

And so how often in your average year would you have to go through a tender process for a contract of that magnitude?---Probably every second year.

So can I take it that the 2015 tender process was a matter of some significance within SNP?---Every major job is significance with SNP in terms of the retention of those customers.

40 Was that a yes?---Yes.

Were you involved at all in the tender process in 2015 at the university? ---Yes, I was.

What was your involvement?---I tendered at least two presentations, possibly a third.

Were they at the university, were they?---They were at the university, yes.

Can Exhibit 69, page 150, please be brought on the screen. You understand that to be the front page of the SNP response to the request for tender from - - -?---Yeah, I do.

Did you review that document before it was submitted to the university?---I would have reviewed the executive summary and the covering letter in detail.

10 Did you not review the rest of the document?---I would have gone through the pricing with the CFO. I wouldn't have read every part of the document. You know, parts of this are from standard parts from our tender library, so I wouldn't have read every single page of the document.

And what processes are in place, or were in 2015 in place, in SNP to ensure that a document such as this would be accurate and a proper document?
---We had a tender team in place. They would have reviewed the document. There was a normal process in place.

20 And what is that process? There's a tender team. What does it do?---The tender team would get information in terms of the requirement of the job. They would have spent time with Daryl in terms of writing the tender to meet the needs of the university, and if there's specific questions, addressing those specific questions.

And do they report to you?---No, they don't.

Can page 175 please be brought on the screen. I'm sorry, to do this properly I should properly take you to page 174 first. Do you see there there's a big
30 heading at the top that says Price Criteria?---Yes.

Then there's some text which you can take it from me is the request from the university for information, and what's occurred is SNP's filled in the answer. The bit I'd like to draw your attention to on that page is the heading Guard Service Costs, and then 2.1B there's a question, "Please provide a detailed explanation of the service delivery model."---Ah hmm.

Now, if you go over the page, within SNP's answer to that there's the heading Rostering, where the topic of rostering is addressed in the tender.
40 Can you see that?---The bottom of the page, I can, yes.

Yes. So the heading's at the bottom of the page, and that's where SNP's response to the tender request in respect of rostering is contained.---Yes.

So it begins on the bottom line and then if you go over the page to 176, there's the rest of the information. So I'd ask you just to - - -?---Can we go back to, so I can read the first - - -

Of course. So could 175 please be brought up, and then if you go over to page 176. So if you perhaps would read up until the heading Attendance Management, please, sir.---Okay, I've read that.

This isn't part of the boilerplate wording that comes out of your precedent library for tendering, is it?---I'm not sure.

Is it something that you read in the course of your involvement in the tender process?---I don't recall, I don't recall reading this part of the tender.

10

Had you read something - - -?---The, the, the tender was, as we can see at the bottom, 176 pages.

Yes. Had you read something in the tender document and known it to be incorrect, no doubt you would have communicated that to somebody in the team?---Yes, I would have.

20

So going back to page 175, can you see the statement there, "Rostering for the security team across all campus locations will be prepared and communicated by," and then over the page it says, "the site manager." Now, you know now that in fact the rostering was prepared by Frank Lu and communicated via Emir Balicevac, don't you?---I know that now, yes.

MR COLEMAN: I gather my learned friend won't be making any submissions about the consequences of this because we had yesterday a very senior employee of his organisation saying that what was in the tender doesn't matter, it's what's in the contract.

30

MR BENDER: Well, I'm not sure whether that's an objection. I definitely will be making a submission about this.

THE COMMISSIONER: Carry on.

40

MR BENDER: So you know now that in fact it wasn't the site manager but it was Mr Lu who prepared and Mr Balicevac who communicated the rosters to SNP, don't you?---My understanding is the core roster was done at West Ryde and the ad hoc work was done at the university. We received requests from work through Dennis and his team and we rostered accordingly.

Yes. And the time sheets were prepared by Mr Lu and communicated by Mr Balicevac, that's right, isn't it, you know that?---My understanding was that the, that Lu, Balicevac and McCreadie were involved in the time sheets.

Yes. And to the extent that Mr Lu and Mr Balicevac were involved in preparing and communicating the time sheets for SNP, that is one inaccuracy in the tender document, isn't it, because it wasn't a site manager who did that?

MR COLEMAN: Sorry, it talks about the rostering, I think, not the time sheets.

MR BENDER: Well, it does, but in substance that's the same thing. So I'm putting to the witness that the fact that the time sheets were prepared and communicated by those individuals demonstrates an inaccuracy in the tender document, and I'd be grateful to my learned friend if he didn't lead the witness's answer.

10

MR COLEMAN: Well, I object. My friend should withdraw that. I was making an objection. There is a difference between rostering and the time sheets which were eventually prepared.

20

MR BENDER: So I suggest to you that is an inaccuracy in the tender document because the rostering was in fact prepared and communicated through the time sheets by Mr Lu and Mr Balicevac. Do you agree?---No, I don't agree with this. We put this document together probably early 2015. You know, the job changed, the job grew, people took on additional responsibilities. At that time, Emir Balicevac was not a 2IC in the role. I think he was a team leader. So with the changes to the job, different tasks were allocated to people.

So you accept that what was actually done wasn't what was proposed at the time of the tender?---No, Dennis Smith had full visibility of everything we did on-site. If we were changing the way that we were going to conduct an operation or a way of doing things, he would have been privy to it.

30

I'm just asking you at this stage whether or not what occurred marries up to what's in the tender document, not about whether any changes were approved by Mr Smith. Do you understand that?---I understand that, yes.

And I'm asking you, do you agree that the fact that Mr Lu and Mr Balicevac were preparing and communicating the time sheets meant that the statement about the site manager preparing and communicating rostering was incorrect?---On the basis of what you just said, that is not reflected in the tender document.

40

Now, you understand now that Mr Lu and Mr Balicevac were both in conflict positions because of their employment by SIG?---I understand that now from the evidence over the last two and a half weeks.

And you would agree that that's a real problem in terms of their preparing time sheets that were sent to SNP for work done at the university?---I agree with that, yes.

Can you see in the tender document there is a statement in the fourth paragraph down, "Additionally, SNP's fatigue management processes will

be supported by the system,” I’m sorry, “supported by the system through various methods including assessment of projected and historical rosters.”
---I see that, yes.

And can you see in the paragraph above that there’s a reference to the Microster system?---Ah hmm.

And so do you understand the reference to the system in the fourth paragraph to be the Microster system?---Yeah, I do.

10

THE COMMISSIONER: What were SNP’s fatigue management processes? You may not be able to answer that, but do you know?

---There’s a number of stops that are within the Microster system that stops a rostering person allocating an individual for more than their prescribed shifts. That needs to be elevated then to a supervisor and then to the workforce planning manager. So this, this is, the fatigue situations we had at Sydney Uni are very much isolated to Sydney Uni. It’s not a systemic problem within the business. We had the collusion of various parties creating an environment that was very difficult to detect, and, and when we did detect it, we took action.

20

MR BENDER: One of the fatigue management processes in Microster was a rule break that would be triggered if someone broke a fatigue limit. You’re aware of that, aren’t you?---Yes, I am aware of that.

Now, you know that that doesn’t work where the guard is listed under two names in Microster, one for SIG and one for SNP?---I, I’m aware of that.

30

And you knew that that meant that in some instances in SNP, the fatigue limit rule break in fact did not work. Are you aware of that?---I’m aware that the fatigue limit on this site did not work, yes, because of the 55 and the, and the single digit numbers.

And you know that fatigue management was an important issue to the University of Sydney, correct?---It’s a very important matter to SNP as well.

And that’s because one doesn’t want sleepy guards on campus protecting students, correct?---Correct.

40

Ms Willard agreed that the fact that the rule breaks didn’t work was a serious problem. Are you aware of that evidence?---It is a serious problem.

And are you aware that she raised that problem with the NOC manager and nothing was done?---I didn’t read that in her transcript.

Were you aware that that occurred?---Which NOC manager?

I think a Mr Giardini may have been his name. I stand to be corrected, though.---Yeah, he reports to Linda so I don't think she would have raised it with him. She would have directed him.

So you're not aware that Ms Willard raised that issue with the NOC manager at the time?---In relation to this site?

Yes.---No.

10 And had that been raised by Ms Willard with the NOC manager and nothing occurred, would you agree that that was a serious failure of oversight with SNP as regards fatigue management at the University of Sydney?---We took action when we, it was the lack of fatigue management on-site that resulted in us aligning several other things that were going on on-site and taking action to remove the contractor, so I'm not sure what period you're referring to.

20 I think Ms Willard's evidence was that she raised it in 2017, so had that been raised in 2017 with the NOC manager and nothing occurred as a result, would you agree that was a serious failure of oversight by SNP?---SNG, ah, SIG was giving notifications about fatigue management in 2017.

What do you mean? What do you mean by that?---Well, in terms of they, they were getting, we were doing counselling with them over fatigue management in 2017.

What was that counselling?---This was in terms of giving them notifications in relation to fatigue.

30 What were those notifications?---Well, they, they were getting a written notification from us that there was breaches in fatigue, and for them to correct it.

And what level of breaches of fatigue were occurring as at 2017?---Well, it was being picked up through the NOC, so it was being picked up through Linda's team. So it was being raised by Domenic and being addressed by our head of operational risk.

40 When in 2017 was that occurring?---I've got several dates. I don't have them with me but I can provide that information.

And were you personally aware that that was occurring?---After the event.

When after the event did you become aware of it?---I became aware of that after ICAC came on-site. Actually, no, sorry, I became aware of growing issues which resulted in SIG being removed from the site or attempts to remove SIG from the site.

And when were those first attempts to remove SIG from the site?---They started in early April. We started to investigate SIG in earnest in March, and that followed into April. We made a decision in the beginning of April to remove SIG, and that process was stopped by, by Dennis.

10 So is it correct that at some point prior to 2018, SNP became aware that there were multiple breaches of fatigue limits, took the issue up with SIG, and no step was taken to remove SIG until I think you said April 2018?
---No, that's not correct. We saw occasional instances of fatigue breaches and we addressed that with SIG in 2017.

When you say you addressed that with SIG, do you just mean you said there has been a fatigue breach?---No, they, they would have been notified through the process we have in place in relation to fatigue breaches.

And what is that process?---They would have been contacted by our head of operational risk. He would have organised a meeting either face-to-face or over the phone and then would have issued a, a record of a meeting to them.

20 So what was said at the meeting?---I don't have those records with me.

Right. So is it the position that all you know is that there was a meeting and that something was said, you don't know what that was, and then you're not aware of anything else occurring until SIG was sought to be removed in April 2018?---No, we started, those meetings could have occurred in, towards the end of 2017. So effectively as a result of our investigation of the site in terms of what was going on, that was over a period of months.

30 And you're aware, aren't you, that there were serious fatigue limit problems throughout 2017 on the site? You're aware of that now?---Yeah, I was only aware of that, the severity of it, through this investigation.

And in circumstances where Ms Willard had raised with her NOC manager, I suggest, problems with the rule breaks, you were aware that there were multiple fatigue limit breaches and were communicating with SIG about them in 2017, it was a serious failure of oversight by SNP to wait until April 2018 to remove them as a subcontractor, do you agree?---I'm not sure what date in 2017 you're referring to, whether you're referring to November 2017
- - -

40 I'm not referring to any date because I don't know when your subordinates were communicating with SIG. So I'm asking you, do you agree that throughout 2017 there was a fundamental oversight - - -?---No, I don't know whether it's throughout 2017. It could be - - -

- - - in the way in which SNP managed SIG's fatigue limits?---We became aware of fatigue breaches. We addressed those issues with SIG. I don't know the exact period that that happened. We continued to investigate the,

what SIG was doing on-site. We were getting probably obstructive and non-cooperation from Daryl, and as a result of that we took action to remove SIG from site.

So can I take from that answer that you deny that there was a serious failure of oversight in respect of fatigue management throughout that period?
---Based on the information I know now, there was a serious amount of fatigue breaches going on-site - - -

10 And there was a serious failure of oversight - - -?--- - - - with, with multiple names being used.

- - - by SNP in that respect, wasn't there?---We, we took action based on the information we had.

Are you agreeing with me?---I don't have enough information in front of me to, to make that comment.

20 So is the answer you don't know whether or not there was a serious failure of oversight by SNP in respect of fatigue management in 2017 to 2018?---In terms of knowing what I know now through the Commission, there, there was. Prior to the Commission being undertaken, I don't have enough information in front of me to, to answer that.

30 Thank you. Do you also agree that the statement that the, "SNP's fatigue management processes will be supported by the system," meaning the Microster system, was inaccurate?---Under normal circumstances where you've got a trustworthy account manager on-site, where you've got team leaders that, that have the interest of the business at heart, the system works. When you have the collusion of various parties on-site, no system is going to work effectively.

40 THE COMMISSIONER: Can I just ask you something in relation to that. I accept that, I mean, it's almost without exception in matters involving corrupt conduct that the conduct will occur in secret, and I'll accept that it's difficult for an employer to isolate dishonesty within its business where, of course, it's hidden. But there are employers that assume that not all employees are honest and they put in place mechanisms which are at least intended to limit dishonest conduct occurring, and one measure, for example, is that management can introduce training of relevant staff in relation to red flags – that is, things that they might observe that sound alarm bells – and then the matter's taken further. It might be said, in relation to SNP, that it doesn't seem to have had in place any or any sufficient measures to deal with possible dishonesty within its workforce, and what's concerning me a little is that it was receiving red flags in the sense that, I mean, even with the time sheets, there were things on the time sheets that were coming in which should have alerted anyone, might I say, to the fact that there might be problems and nothing seems to have been

done.---I think Linda indicated in her evidence that the time sheets were being keyed in by maybe one to two people, so you had the same people doing that time and time again. They were contacting Daryl and, and going through discrepancies and, and he was probably just snowballing them on it.

But that's my point, that perhaps had these staff received training in relation to what to look out for, particularly when it involves the payment of money, things might have been very different.---Yeah. We, we, we put in a number of mechanisms - - -

10

Yes. What were they?--- - - - since Certis has acquired the business in relation to risk management and that then identifies the red flags. I suppose my clearest indication in terms of the performance on the people on-site is the feedback I'm getting from the client, and the role that I've undertaken over many, many years is to be very customer-facing, and I was getting assurances from Dennis, from Steve Sullivan, from Morgan Andrews and from everybody on-site the job was going very, very well. So I had no doubt, and these are people that held, you know, high-ranking positions within the New South Wales Police Force or other commercial businesses, and they were indicating to me on every occasion that I went on-site, the job was going well, you've got a really strong team. So, you know, as I said before, you know, the gatekeeper on every gate appeared to be part of this.

20

But that's what corruption's all about.---I know, I know. And that's why I said in the statement, normal processes in place are there to catch individuals out. You know, when you've got groups of people colluding together, it is very difficult to do that.

Yes, I agree. Thank you.

30

MR BENDER: Thank you, Commissioner. Can you see in the tender document at page 176, under the heading Attendance Management and IVR, there is a paragraph?---Yeah, I see that, yes.

Can you see the last sentence of that paragraph says, "The attendance management function in Microster supports a variety of ways to clock in and out to monitor employees' attendance?"---Sure, I see that, yes.

And you've read that paragraph to yourself, I take it.---I'm doing that now, yes. Yeah, I've read that.

40

Do you agree that, as far as you're aware now, no steps were taken by SNP at all to check the time sheets against the employees' scheduled roster?---In terms of you're referring to the ad hoc work that was done?

Well, any of the time sheets that were sent by Mr Balicevac to SNP. You're not aware of any occasion when those were checked against the scheduled roster, are you?---Well, no, the, the base roster was being done at West

Ryde. The ad hoc work was being done at the university, being rostered at the university.

And time sheets were being sent from the university to SNP.---Time sheets were being sent, yeah, from the university to SNP, correct.

10 To your knowledge, what, if anything, occurred to verify that those time sheets married up to the scheduled roster?---Well, the, I suppose the clear indication we've got in terms of if, if things are not going well is from the client. And, and we, we, we had - - -

I understand that's your position, Mr Roche. You've made that very clear. But it doesn't address the question at all, which is what, to your knowledge, was done by SNP, if anything - - -?---Well, we had, we had - - -

- - - to verify that the time sheets corresponded to any form of roster?
---Well, we had Daryl McCreddie signing off on the time sheets. The, the rosters were being, for the base contract, were being done by the West Ryde rostering team. Now, those rosters would be very, very, very accurate. The
20 problem we had was the rostering that was being done on-site and the number of guards that were being required, overstated by, and being signed off at a level above us.

Do you see the second and third sentence in that paragraph in the tender document, which says, "The transactions are employee based and are checked against employees scheduled or rostered to identify any late, early or duplicate clocking, as well as not clocking in"?---Ah hmm.

30 And the next sentence, "The attendance management function in Microster supports a variety of ways to clock in and out to monitor employee attendance."---Ah hmm. I see that.

Do you agree that you're now aware that nothing in Microster was done to check employees clocking in and out to monitor employee attendance at the University of Sydney?---I agree that nothing was done electronically to do that.

40 What do you say was done?---It would have been, the base roster was being done through West Ryde. I have no doubt to believe that was inaccurate.

But what was done to check the clocking in and out to monitor employee attendance?---It wasn't being clocked in electronically.

Was it being clocked in at all?---I think the word "clocking in", they, they were being entered in, people were being rostered and people were turning up for work, but those core functions, if someone doesn't turn up for the job, it is very, very obvious that it's not been done.

Are you able to identify any way in which SNP verified that?---I suppose again the feedback I was working on is our KPI reporting. Right, that is a clear indication whether we were delivering against the contract or not, and we hadn't had a KPI (not transcribable) during, yeah, up, up till April 2018.

10 So other than KPI reporting, you're unable to identify any way in which the attendance of guards at particular points in the university was being verified by SNP?---Well, if we're not providing the guards on-site, you've got areas that are not being opened up on time, so it means students aren't getting access to lecture theatres. You don't have people in the control room monitoring the services, so that, that, that was two to three guards, 24 hours a day. The work was being provided. The concern, I believe, was in the ad hoc area.

Is that a concern you held as at 2016 or a concern that you now hold?---It's a concern that I now hold, obviously.

Is it a concern you held in 2016 or 2017?---No, it isn't.

20 So other than the fact that it seemed that doors were being opened on time and that there were no KPI breaches reported, you're unable to identify any way in which SNP verified the attendance of guards according to what's said on the time sheets?---Yeah, apart from, apart from what it stated and feedback from the client, that was our mechanism to identify whether we were having guards turning up to the required post.

30 And isn't it the case that what was occurring at SNP was simply, after the time sheets had been received, that information was being entered into, I think it was entered into Microster, is that right?---Yeah. Daryl had visibility of the Microster system, right, so he could view all the guards on duty, he couldn't make changes to it. So the time sheets were then being, my understanding, they were being scanned and sent to West Ryde.

And contrary to what's said in the last sentence of that paragraph, nothing in Microster supported a way of monitoring clocking in or out of employees or verified the time sheets in any way, did it?---No. It was, it was our intention to put a finger scan system on-site. We had numerous attempts to do that and we just couldn't get it - - -

40 I'm sorry, but is the answer to my question no, that is - - -?---Sorry, give me the question again.

Contrary to the last sentence of that paragraph, nothing in Microster supported any way of monitoring clocking in or clocking out an employee, nor indeed did it permit the verification of the time sheets?---No. Apart from manual time sheets, that was the only mechanism we had.

So that is another inaccuracy in the tender statement, do you agree?---Yeah. We, we weren't delivering on what we stated here in terms of the clocking in and clocking out.

Under that paragraph, there's a series of bullet points. Can you see that?---I can see those, yes.

10 There's been some evidence about the fingerprint scanning and you're about to address that. I think I may have been confused about this earlier but I think the position is that the fingerprint scanners themselves were provided by SNP, the hardware, is that your understanding?---That's correct.

And Microster is an SNP piece of software? It's not the university's software, you agree?---Microster is SNP, yes.

And the guards are obviously either SNP guards or SIG guards procured by SNP, do you agree?---I agree, yes.

20 So I want to suggest to you that any failure in respect of the fingerprint scanning system was entirely the responsibility of SNP, do you agree?---I agree that we should have got the finger scanning system in place, yes.

It certainly wasn't the university's responsibility, was it?---No. It was SNP, we should have got that in place.

And that didn't occur, did it?---That didn't occur and then, and now I know why it didn't occur and, and we, we I think our efforts to put in on-site were, were actually sabotaged.

30 The other bullet points under the heading Attendance Management and Service Authentication, do you know if any of those ever occurred at the university?---The self-serve that was available to employees in terms of going onto an internet.

And what did it do?---Well, it just gave them access to an internal portal.

And how was that used to ensure attendance management?---Well, it just gave them visibility in terms of what was going on within the business.

40 And by them, do you mean the guards?---Yeah, our employees, yes.

So it was a way that guards could get access to, what, your intranet or something?---Yes.

So that doesn't do anything to ensure that they're at work doing their job, does it?---Not in relation to, I'm not sure whether there was another link to a portal that assisted in that. I'm, I'm not a hundred per cent sure on that one.

Well, I appreciate that you were at a high level of seniority, so you may not have been engaging with the detail to short-circuit this. Perhaps if you can identify any of those bullet points that in any way assisted SNP in ensuring that guards were performing the work they ought to have been performing. ---I think this is probably, yeah, I'm not into the detail on this part of it.

Now, could I next please ask that Exhibit 71, page 198 be brought up. You'd obviously recognise that as being the KPMG report?---I do.

10 Which you saw around July 2016, I think you said?---Yeah, correct.

No doubt you took it extremely seriously?---Yes. I reviewed the report.

And took it extremely seriously?---Yes, I took it seriously.

Could page 203 please be brought up. This is, as you can see, the key observation rated as a significant issue.---Ah hmm.

20 So I think, well, you can see the statement, "A few security guards working both as SNP staff as per the core roster" - - -?---Ah hmm.

- - - "and as SIG staff for extra shifts over and above the roster at normal rates." So no doubt you were aware at that time that guards were working both for SNP and SIG at the same time?---Yeah. I read this report and I looked at the words around it which said, "Due to a few guards." I took it as a handful of guards. I had no idea it was to the extent that it currently is.

30 But you were, you were aware that some guards were doing it?---Yes, I was aware from this report.

Putting aside any issue about time sheet fraud or overtime or people not turning up to do shifts, would you think it would be appropriate that SNP employees would also work for a subcontractor?---It's not appropriate at all.

40 Did you take any steps in 2016 to prevent that from occurring, in response to this report?---I remember going through the report with Daryl, I'm sure his reference to this was, you know, it happens occasionally, it happens from time to time, we're allocating people that know the job to particular sites, there's certain work that's allocated to the subcontractor and certain work that we do ourselves. SNP was doing the core services, the subcontractor was doing the surge work.

But you agreed a moment ago that it's inappropriate for - - -?---It is inappropriate, yes.

Why do you think it's inappropriate?---Well, it's - - -

MR COLEMAN: I object. This was all dealt with yesterday by Counsel Assisting.

THE COMMISSIONER: Yes, I think that's right, Mr Bender. And one thing that's occurring to me during all of this is that the university knew it was happening.

MR COLEMAN: Exactly.

10 MR BENDER: Well, certain officers within the university knew about it.

THE COMMISSIONER: Yes. I mean you've got the same problem in a sense on one view as SNP, that is on one view, and I've got no concluded view at the moment, a university employee was colluding as well.

MR BENDER: Yes. Well, if you've found that then that the position of the university would be the position of an employer, employer whose employee had been found to be corrupt and that person would have known about these issues no doubt.

20

THE COMMISSIONER: But I'd raise with you the same issues I raised with Mr Roche, that it's not really, on one view, good enough to say well, we've got a couple of bad apples, sorry about that, it's a question of what mechanisms were in place to flag the fact that there might be an issue.

MR BENDER: No doubt. And no doubt one of the topics in your report eventually, Commissioner, will be steps taken by both SNP and the university in that respect.

30 THE COMMISSIONER: Mmm.

MR BENDER: So just as Mr Coleman examining Mr Robinson about the steps he took in response to the KPMG report, it's totally appropriate for me to explore the steps taken by Mr Roche, with respect.

THE COMMISSIONER: Well, I thought that was explored yesterday.

MR BENDER: Well, there is one thing which I don't think was explored.

40 THE COMMISSIONER: Okay. Well - - -

MR BENDER: You understood, didn't you, that the SIG guards were providing the surge services. Correct?---Correct.

And was that because guarding services were required that went beyond what SNP itself had the capacity to provide?---Well, surge by its nature is, it's a short-term requirement, so we had agreement to provide, to use a contractor to provide those work, that work.

But presumably if there was enough capacity within SNP to do the work itself, there would be no need to use a subcontractor. That's correct, isn't it? ---We have sites which are 100 per cent direct employed, we have sites that are, where surge is provided by contractors, so it's not something that's unusual in the industry, to use contractors to provide surge work.

10 I'm not asking you whether it's unusual. What's unusual is the fact that the employees in this case were both SNP and SIG employees.---I agree with that, yes.

And so, for example, to give it some concrete context, if the university needed two more guards by way of surge support and you had Mr Balicevac and Mr Lu with nothing to do, you could send them in their capacity as SNP employees, couldn't you?---I think you had one as the 2IC and another one as a team leader, so I'm not sure - - -

20 I'm just trying to create an example to make my point, because perhaps I'm not putting it as clearly as I could. I'm just trying to understand how there could be any legitimate purpose for any guard to be employed by SNP and SIG at the same time when the sole reason for SIG being engaged at the university was to provide surge services that SNP itself couldn't provide. So my question is, couldn't you just send an employee with their SNP hat on?

30 MR COLEMAN: Well, I object to that question because the witness didn't know that the, well, apart from Mr Lu, perhaps, that the guards were being employed by both SIG and SNP, and the surge guards I think the evidence shows were SIG subcontracted guards.

THE COMMISSIONER: Isn't that right, Mr English?

MR COLEMAN: I frankly don't understand the question.

MR BENDER: What I'm trying to explore is whether there was any possible legitimate reason why a guard could be employed by both SNP and SIG other than to get around overtime or fatigue limits.

40 THE COMMISSIONER: Why don't you ask that question?

MR BENDER: Well, can you think of any reason why a guard would be employed by both SNP and SIG except to avoid fatigue limits or overtime restrictions?---No. And as I said yesterday, this was a practice that only happened at Sydney University.

And is that something you thought about when you received the KPMG report, that there could be no legitimate reason for this practice?---I took this report on face value, right, and it spoke about a few guards working for SIG.

I spoke to, I would have spoken to Daryl about it because I remember him sitting in my room as he ran through this report. Whatever excuse he gave me at the time seemed to make sense.

But you don't remember what that is now?---Well, it would have been along the lines of, you know, they've done work because we had a situation, you know, if, if he had have said there'd been multiple guards, it's a different situation. This report that was undertaken by KPMG outlines that a few guards are working for both ourselves and SIG.

10

And did you or did you not turn your mind to the fact that there is no legitimate reason why two guards should be employed by both companies when SIG was only employed to do surge services at the university?
---There's no reason why, yeah, yeah.

Did you turn your mind to that?---I may have said to him, Daryl, you know, you need to manage this. You need to, we need to employ more people on-site to avoid this happening. You know, he would have, he would have played it down.

20

So you did turn your mind to it?

MR COLEMAN: I object. We've done this and we've done it yesterday in terms of my learned friend Counsel Assisting exploring the conflict of interest policy and the effect, how did that fail or operate in terms of the response to - - -

30

THE COMMISSIONER: I think it was slightly different, although I think we've probably taken it as far as we can. Slightly different in the sense that I don't think Mr English put to Mr Roche that there's no logical reason for it to happen apart from doing extended shifts. Yes, but, I mean, that's been put now and, yes.

MR COLEMAN: I think that's been put and answered, yes.

40

MR BENDER: Can I suggest to you, Mr Roche, that what you should have done is, when you became aware that both SIG and SNP was employing the same guard, you should have realised that there could be no legitimate reason for that and immediately had that issue investigated because the only explanations were somebody was trying to get around the rules about fatigue limits or overtime. Do you accept that?---Well, based on what I know now, yes.

Now, as a result of the approach taken to fatigue management and overtime and attendance management – I withdraw that. You're aware now that at the university there are instances where guards were working for days on end with only taking a couple of hours' break, aren't you?---I only became aware of this through this inquiry.

And you're aware that Mr Balicevac, for example, was charging a vast amount of money, including for work that was not in fact done by anyone?
---I'm aware of that through this inquiry.

And you're aware that Mr Lu was also charging for work that wasn't done by anyone, aren't you?---Again, through this inquiry, yes.

10 And Mr McCreadie was also fraudulently obtaining benefits, ultimately, from the university?---Yes, he was.

And as a result of that, there were substantial numbers of shifts that went uncovered at the university, you're aware of that?---I am now aware of that, yes.

20 And what I want to suggest to you is that represents a dismal failure by SNP to provide the level of service that the university was entitled to expect. Do you accept that?---I accept, you know, based on the information we have now, you know, we have, we've got several parties working together to perpetrate this fraud and, you know, it was difficult to pick up what was going on. When we got insight into what we believed was a much smaller problem, we took action, but I believe based on the information now, yes, this is of deep concern to me, as it should be.

And would you agree that one of the reasons that fraud was able to be perpetrated was that the attendance management systems in place at SNP fell far short of what had been advertised in the tender?

30 MR GIVORSHNER: Well, this has been done to death, I think, Commissioner, with respect. It doesn't gain more probity because it's repeated a thousand times.

MR BENDER: It's just a submission I'm going to make, so I just want to put it to him,

MR GIVORSHNER: Well, exactly.

MR BENDER: Well, I should put it to him.

40 MR COLEMAN: Well, no, you don't have to put the submission. Otherwise I would have put a lot more to Mr Robinson yesterday.

THE COMMISSIONER: Come on, now.

MR BENDER: Well, that's my last question.

THE COMMISSIONER: Put it again.

MR BENDER: Do you agree that one of the reasons that he fraud was able to be perpetrated was the failure of SNP to provide attendance management systems to the quality advertised in its tender?---I believe, I believe under normal circumstances we would have got the, those, the finger scan system up and running. If we hadn't have had a situation where we had people working against us on-site, potentially, you know, by their own employees and some within the university, we would have got the system working, but we were unable to deliver, we were unable to deliver what we outlined in the tender because of the individuals that were on-site.

10

Thank you, Commissioner.

THE COMMISSIONER: Thank you. Any other questions?

MR ENGLISH: Commissioner, if you're minded to allow Mr Givorshner and Mr Coleman some time to confer, can I just say this in relation to the document that was provided to me by Mr C. J. Watson, Exhibit 108 is dated the email 11 October, 2016. It refers to the period of last week, and the rosters that have been provided don't cover that period of the week prior. So I'm wondering if my friends might be able to provide the rosters for Kerem Akkan for the week from 2 October to 9 October, 2016, please.

20

MR COLEMAN: That will be done.

THE COMMISSIONER: So what would you like me to do? Adjourn for 15 minutes?

MR C. WATSON: Commissioner, I'd just like an opportunity to speak to my client. Unfortunately he can't be here today and there were some matters that arose just in the course of the evidence today that I'd like to take some instructions about.

30

THE COMMISSIONER: Is there any objection to that by anyone? That's fine.

MR GIVORSHNER: Just a question of how much time, Your Honour, can you give us. Mr Coleman wants 10 minutes, I'll need about the same.

THE COMMISSIONER: Well, why don't we adjourn until five past 11.00 and we'll just take this as being the morning adjournment.

40

MR COLEMAN: Very grateful, thank you, Commissioner.

THE COMMISSIONER: Yes.

SHORT ADJOURNMENT

[10.43am]

THE COMMISSIONER: So where are we?

MR COLEMAN: I'm going to ask a couple of questions with your leave, Commissioner.

THE COMMISSIONER: Yes, sure.

10 MR COLEMAN: Mr Roche, you know my name is Coleman?---Yes.

And I represent SNP. You were asked some questions by Mr Bender about your knowledge of whether time sheets were checked as against the rosters that were prepared. Do you remember those time sheets, those questions, sorry?---Yeah, I do.

If concerns or questions had been raised by SNP staff, who would have raised those concerns or questions, to your knowledge?---They would have been raised by the people inputting the time sheets.

20

And would you have been made aware of those concerns or questions by those people who would have raised them?---No, I wouldn't.

The second matter I want to ask you about was, you gave an answer to a question from Mr Bender about the fingerprint scanner, and you had a view as to why it didn't work. Can you explain to the Commissioner what that view is?---I believe that if it had have been put on-site the activities that we've heard about over the last two and a half weeks, they would have been monitored, they would have been accounted for, and I believe that looking

30 back at the difficulty we had on-site, that every time we tried to do something there was an obstruction, so as I said earlier, I believe, you know, the whole process was sabotaged from within the university.

Is it the case that on other sites you deployed the fingerprint scanning technology that was at the university without problems?---We've got that operating at other sites, yes.

And has there been the problems that apparently were faced at Sydney University?---No.

40

Yes, thank you, they're my questions.

THE COMMISSIONER: Thank you. I think we've got Mr Watson back there. Mr Watson?

MR C. WATSON: Thank you. Just taking up that last point - - -

MR COLEMAN: I may seek to ask some questions if something arises.

THE COMMISSIONER: That's okay.

MR C. WATSON: Taking up that last point in relation to the fingerprint scanner, have you yourself made any inquiries as to the functionality of the fingerprint scanner at the time?---At the time, when you, which period are you referring to?

10 The fingerprint scanner at Sydney University.---No, but are you referring to when we attempted to put it on-site in 2015/2016?

Yes. It was placed on-site. Do you know where it was placed on-site?---It was adjacent to the operations room.

It wasn't placed in the operations room, was it?---As far as I'm aware it was adjacent to the operations room.

In a hallway?---In a hallway, correct, yeah.

20 And in relation to the operation of that scanner, are you aware that there were difficulties that arose for the accounting staff in entering the data that was inputted by people using the scanner in terms of the timing issues, for example?---I was aware that there were ongoing problems getting the system working.

Were you aware that there were also communication issues, technological communication issues in relation to the scanner?---I'm not aware the detail of the problems in getting the system working but I was aware there was ongoing problems getting the system working.

30 You've made a conclusion that in some respects it was sabotaged. How do you come to the conclusion that it was sabotaged if you're not aware of the difficulties, technologically or otherwise with regard to the operation of it? ---I'm basing it on the information I've heard over the last two and a half weeks.

40 Other than – what is the information you've heard over the last couple of weeks that suggests that it was sabotaged?---Well, there were a number of people that actively colluded to, you know, perpetrate a fraud in terms of ghosting of shifts and such a mechanism would have gone a long way to detecting that.

Well, that's a reasoning process that you've adopted by reason of the identified frauds, but has nothing to do with the operation of the machine, does it?---It has nothing to do with the operation of the machine, yes.

Thank you. In relation to the evidence of Mr, in respect of the time sheets, you gave some evidence this morning that Daryl was signing off on the time sheets. Do you recall saying that?---I do, yes.

I want to put to you that that is not the case and that Mr McCreadie was not signing off on the time sheets.---Ah hmm.

10 What do you say about that?---He was the site manager, he was the most senior SNP representative on-side. I would expect him to have visibility of the time sheets. He is responsible for, at SNP's end for managing that contract.

There's a difference, isn't there, between having responsibility and signing off on them?---Well, he should have visibility of what's going on with, with that component of the contract in terms of whether people were being deployed to site, whether we were meeting our contractual requirements in relation to delivering services, and that would have been communicated through the time sheets.

20 Well, it's a conclusion you've reached that he was signing off as opposed to what you think he should have been doing, as opposed to what was in fact the case. Is that correct?---Yeah, it's what I believed he should have been doing.

You also said, gave in evidence this morning that Daryl had visibility of the Microster system. Do you recall saying that?---Yes, I recall saying that.

30 I put to you that in fact he had no such visibility at all and that the Microster system was not accessible to him.---Okay. He certainly had a sign-in code to be, to have access to Microster, whether he used that code or not I'm not sure.

And I think the last thing I want to take you to is, you said that you went through the key observations with Mr McCreadie.---Ah hmm.

I want to put to you that that's not in fact correct.---Okay. Well, I believe it is correct.

40 I suggest you - - -?---I remember him coming into my office and talking through aspects of that report.

I suggest to you that that's not the case and that you went in fact through the key observations with Tammy Iselt, not with Mr McCreadie.---That's, that's not correct at all.

Yes, thank you, Commissioner.

THE COMMISSIONER: We received some evidence from Ms Willard, didn't we, about the fact that the fingerprint scanner wouldn't really assist because it would create too many errors because of this gentlemen's agreement that you could start late and finish early or - - -

MR ENGLISH: That's right. That was I think one of the reasons Ms Willard posited for the fingerprint trial being ceased at the university.

10 THE COMMISSIONER: Yes. Okay. Sorry, Mr Coleman, did you have - -
-

MR COLEMAN: No, no, no. I was just standing. I thought you were addressing me, Commissioner.

MR GIVORSHNER: You remember the Commissioner asked you towards
the end of your evidence before the break as to whether you had as a
company any systems in place at the university website to sort of guard
against the possibility of corruption?---Yes, I do.
20

And you probably also remember that when Ms Willard gave her evidence
and was asked about what improvements she was aware of that had been
introduced since the events that this investigation is about, she referred to a
whistle-blower policy that had been introduced since the event. Do you
remember that?---I remember that, yes.

And I think that, when you heard that, triggered your memory that there was
in fact a whistle-blower policy in place since 2012, is that right?---Yeah,
that's correct.
30

Which was applicable, obviously, for the university site as well.---Yeah,
that's correct.

That's right. I've asked Counsel Assisting, well, I'd ask - - -

MR ENGLISH: You haven't, but I'm happy to tender the policies,
Commissioner.

MR GIVORSHNER: I've asked, I've, yes, I've caused these to be sent to
40 the Commissioner so they can be accessed. Would you bring up – there are
two documents. The first is described as a Whistle-blower Protection
Policy, if that can be brought up. One is described as a Whistle-blower
Protection Policy, which is the 2012 one.

MR ENGLISH: If I can formally request that that be tendered,
Commissioner.

THE COMMISSIONER: Yes, certainly. We'll mark that Exhibit 133.

**#EXH-133 – SNP WHISTLE-BLOWER PROTECTION POLICY
DATED 16 APRIL 2012**

MR ENGLISH: And I'll hand up a copy to you, Commissioner.

THE COMMISSIONER: Thank you.

10

MR ENGLISH: And can we do the other policy now, please, Mr Givorshner, so I don't interrupt again?

MR GIVORSHNER: All right. Well, the second one is simply described as a Whistle-blowing Policy. It has seven pages rather than the three pages that the first one has, and I'm happy for them to form part of the same exhibit.

20

THE COMMISSIONER: I think we'll mark it separately. We'll mark that one Exhibit 134.

**#EXH-134 – SNP WHISTLE-BLOWING POLICY DATED 30 JUNE
2016**

MR ENGLISH: And I'll hand up a copy of that larger version of the policy, Commissioner.

30

THE COMMISSIONER: Does that second policy have a date?

MR GIVORSHNER: There doesn't appear to be a date on the document.
---No, but which, no, there is.

Oh, is there?---Are you referring to the one onscreen now?

Well, either of them.---Okay, so the first, it's a quality document, so it meets the dating requirements of Standards Australia.

40

This is the 2012 document we're looking at now.---Yeah, that's, that's on the bottom. So it's got "version" and it's 16/04/12.

Is that a date?---That's a date.

Oh, I see. I didn't realise. Okay. All right. And if we can just go to the second one, which was Exhibit 106, was it?

MR ENGLISH: 134.

MR GIVORSHNER: 134, I'm sorry. And in a similar place the date appears down the bottom left-hand showing, well, it doesn't look like a date, but you say that indicates - - -?---No, that's, no, that's the 30th of the 6th, '16.

10 Okay, all right. Thank you. All right. Now, just in terms of the, and your understanding is that both the whistle-blower protection policy, the earlier one at 2012, formed part of the induction materials that were given to employees?---Yes, it would be in the employee handbook. I'd almost guarantee that.

Now, just looking to some of the changes that have been made by way of improvement to that policy. Oh, before I ask that, to your knowledge, did anybody at the university during the period 2015-2018 use the whistle-blower protection policy that was in place at that time to bring to the company's attention the problems that we now know were going on?---No, to the best of my knowledge, no.

20 We then go to the current policy. One of the changes, if I can take you to page 2 – what's the exhibit number? 136? 134. Go to the second page. Under the paragraph headed Reporting Procedure, there is now a whistle-blower report line, is that right? Which is - - -?---Yes.

See that? So there is a, rather than having simply a form that can be filled in, there is a sort of hotline that anyone who becomes aware of practices that are of concern can simply call that number and have their anonymity protected and report the problem, is that right?---That's correct, yes.

30 And that is the number, I think, of a law firm that's been engaged for that purpose, is that right?---That's correct, yes.

Yes. Right.---These are also reported to Singapore as well.

Say again?---It goes beyond that. It goes to Singapore for investigation and then it goes to my, the group CEO of Certis.

40 So both the means by which matters of concern can be reported and the investigative process which would follow them have been improved from the 2012 policy?---Yeah, there's significantly more rigour around them.

I wanted to take you then through other responses by SNP to the events with which this inquiry has been concerned. I'll just take you through by way of point form the things that have happened. There have been changes in the way that contractors are managed now, is that right?---That's correct.

Can you just take us through that, what's happened there, what changes have been done?---Yes, previously we had account managers and branch managers would have the ability to appoint contractors. That is no longer

the case. It falls to our head of compliance and head of operational risk in terms of the vetting of contractors, going through the procedures in terms of making sure that they're compliant with all the licence requirements. They're interviewed. There's a formal process undertaken.

And I think there's also now a limitation of only two people in the business who can appoint a subcontractor, is that right?---That's correct, and we're tightening that process at the moment.

10 In what way?---Well, just in terms of that is now, it's now being driven across the business, so it's being, the process is constantly being improved.

And have there been things done in relation to addressing the problems of the kinds of relationships that develop between your people and the university people on campus? In other words, I think there's been a policy of non-association introduced to avoid the risk of conflicts of interest arising, is that right?---Yeah, there'll be a requirement in terms of all employees – and again this was something that was done previously, but it's been refreshed – in terms of any said conflicts of interest.

20

And I think in August of 2017 there was a workshop on the kinds of matters that I'm now talking about, is that right?---Yeah, that's correct.

What were the areas covered at that workshop and who were the attendees?

---We had my team, and this is prior to the company being acquired by Certis. We had two external people address the business. We had one specifically talking about compliance and regulations within the, in organisations. It very much focused on good business practices. It also looked at in terms of the systems that we were going to be rolling through the business and making people aware of it in terms of the changes that were ahead in terms of how we deal with contractors and, you know, how we move the business into I suppose more, more process and more rigour.

30

And so far as the areas of responsibility and the teams within the organisation have responsibility for these things, have there been an increase in the size of those teams in terms of recruitment?---There has been. So we've invested in building those teams.

40 Just going through them one by one, Mr Walizada, I think his position is head of operational risk and safety, is that right?---Yes, he oversees work health safety, so Fawad's investigations led to highlighting the problems that we witnessed at Sydney University in early 2018.

You're talking about the fatigue breaches at - - -?---The fatigue breaches, exactly. So he's got a team that looks at that. He's - - -

I think – sorry, go ahead.---Yeah, he's taken on a broader role in terms of risk management as well, and he's been working closely with Singapore in

relation to rolling through their risk processes through the Australian operations.

I think his team has also been increased by three people, is that right?
---That's correct, yes.

And Ms Tamara Bayly, I think her position is head of compliance and quality, is that right?---That's right.

10 Ms Tamara Bayly?---Tamara Bayly, yes.

Yes. Her position is head of compliance and quality, correct?---That's correct, yes.

And has her team also been increased by three or four people since - - -?
---Her team's been increased, exactly, yes.

Yes, all right. Now, in terms of specific actions that have been taken,
what's happening to the rostering? There's been some evidence about this
20 already but if can you just explain again what improvements, what changes
have been made to the rostering system to address the kinds of problems
that were discovered?---Okay, so Microster was introduced to the business
some years ago. The whole idea of putting that in place was the ability to be
able to centralise rostering. Linda outlined that one of her projects was the
rollout of Microster to the business and she completed that, and the next
project was bringing the branches, so all our operations around the country,
back into a centralised rostering platform which gives us far more visibility
in terms of what's going on and allows us better management of the
workforce planning area. So, but the rosters are no longer done in the
30 branches or on-sites. We also have lead indicators and this is visible to
anyone that walks past the room and there's a glass wall. It's a very large
room, there's about 15 to 16 people sitting in that room doing workforce
planning. They would immediately be able to see the percentages in terms
of fatigue breaches that are potentially about to happen. You can also get
the percentage of information for every state in relation to information that
we have in the rosters prior to that job being carried out. So if we've got a
contractor, it, it tells you unfilled shifts, so if you've got a contractor
working and he hasn't given us the name of that individual that is going to
fill that shift, that will come up being flagged.

40

And I think there's been a process also to identify the people who have
particular responsibility for their role in the, in the whole of this enterprise.
Is that right? That's described as enterprise risk management, am I right?
---The enterprise risk management is identifying risks in the business and
identifying risks (not transcribable) and it sets up the framework in terms of
risk reporting and that, that is looked at on a monthly basis in terms of by
the group CEO of Certis. In, in, the one day monthly meeting that we
undertake, enterprise risk management is part of the agenda. We have a

reporting system which is the, the reporting incidents and investigation management system. That is broken into a number of categories, there's six categories, and based on the severity of the event, it will be dealt accordingly. There's major incidences, there's moderate incidences and there's minor incidences. Any major incident, that can be a fatality or a shooting needs to be reported to the board within 30 minutes. So there is a very rigid structure now in place in relation to risk management within the business and identifying risks. Under the ERM, fraud and corruption is one of the identifiable risks. The owner of that within the business is the CFO.

10 We've got work health safety.

Sorry, I - - -?---The CFO. Work health safety is a tier 1 risk under the enterprise risk management system and the owner of that is the, the head of operational risk. So over the last six months in particular, there's been a lot of rigour and procedures put around internal risk management.

Now, one of the things I asked which, I don't think you directly answered was particular people within management are given particular responsibility for areas of risk, is that right?---Yeah. They, they are my reportees, so the people who are accountable to me.

20

So now there is a person who has particular responsibility for the problems of fraud and corruption, is that right, that's Mr - - -?---No, that's the CFO of the business which is John Butler.

Yes. All right. What about fatigue management, is that an issue which has been specifically addressed and measures have been - - -?---Well that falls under work health safety and those risks are reported through the (not transcribable) system. So I'll get a notification on fatigue management instances.

30

And in terms of your personal role in the development of these processes, I think, do you review this process with your team on a regular basis?---It's reviewed, it's reviewed at an absolute minimum, monthly. It's reviewed two-weekly but there's a formal review on a monthly basis. It then goes to, reviewed at a country meeting which is held in Singapore every two months but the dashboards that are available, the information is being reviewed as it happens. It's a live reporting system.

40 That's all, Commissioner. Thank you.

THE COMMISSIONER: Thank you very much.

MR ENGLISH: Just briefly, Mr Roche, you were asked some questions about fatigue limit breaches by Mr Bender and you said that SNP took action when it learnt of those fatigue limit breaches. Do you recall that? ---I recall that, yes.

And then I think you gave at least two examples, one of counselling SIG in 2017 over fatigue management issues. Do you recall giving that evidence?
---I do, yes. I wasn't specific on the month.

I think again you said there were occasional incidents of fatigue breaches in 2017 and SNP notified SIG of those. Do you recall that?---I do, yes.

10 What about the fatigue incident breach that you became aware of in July 2016 in the KPMG audit report, what if any action was taken after you became aware of that?---Well, that, that formed part of our reply to Sydney University and I think our reply indicated that the matter had been dealt with, with SIG. I don't think it went into pacifics [sic] of, of how it was dealt with and, you know, in hindsight we probably could have put more detail around it.

Okay. And so by reference to Exhibit 71, page 286, "This has been brought to the attention of SIG and corrective action to the future has been taken."
---Yeah.

20 Can you provide any further detail as to what that attention was and the corrective action, or not?---They would have been notified of the event, they would have turned, they, we would have given them a letter on that saying that it's a breach in terms of fatigue, and I don't know what the follow-up after that was.

Okay. You gave some evidence also in response to questions asked by Mr Bender. You specifically said it wasn't appropriate at all for SNP staff to work for SIG. Do you recall that?---I recall that, yes.

30 And then you said when the KPMG report was received you went through it with Daryl McCreadie.---Yes.

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

Are you aware that Mr McCreadie prepared some notes in response to the key observations in that report?---I've seen those notes.

40 Okay. If we can have the attachment to Exhibit 90 brought on the screen, please. Are these the notes you saw at or around the time you discussed the matter with Mr McCreadie?---No, this is the notes I've seen since the Commission has started - - -

Oh, okay. So when you sat down with Mr McCreadie did you see these notes?---No, I don't recall seeing these notes.

Okay.---He could have had, you know, a pad on the desk when we sat down but certainly I was not aware of the detail of these notes.

Okay. If you just look at the second of his comments, the last sentence. “I mentioned to KPMG that some of our staff request to have their overtime paid via - - -”?---Sorry, whereabouts are you - - -

Sorry, the second blue for DM. Do you see that?---Okay. “It was explained to KPMG.” That bit?

10 DM, yes, “It was explained to KPMG.”---Yeah, okay, okay.

So the last sentence. Just read that to yourself.---Okay. Okay.

Do you recall Mr McCreadie raising that with you at all, that - - -?
---No.

- - - he’d mentioned to KPMG that some of our staff request to have their overtime paid via SNP and some via SIG?---No, I don’t recall that. But that leads to the fact that there’s a few people working for SIG.

20 Well, is the Commission to understand that if he had raised that with you at the time you would have said that it was not appropriate for SNP staff to be doing any kind of overtime through SIG?---Yeah, yeah. Daryl played down the occurrence of this and I believed him to be right because it indicated in the report “a few guards” were doing the work.

All right. You were asked some questions – if that can be taken off the screen, please – you were asked some questions by Mr Coleman. One of them related to the inputting of entries from time sheets.---Yes.

30 And you said, I think the question was along the lines of, if there were irregularities in those entries would those irregularities have been brought to your attention, and I think your answer was that you would not have been made aware of those.---No.

Okay. What if those irregularities raised in an SNP employee’s mind a potential for fraud. Was that a matter that back in 2015 to 2018 would have been raised with you directly?---If an employee had believed that there was something untoward going on-site I’d imagine he’d raise it with his manager and then it would be elevated to me.

40 Lastly, Mr Givorshner asked you some questions about Exhibit 134, which was the seven-page whistle-blower policy.---Ah hmm.

That, on page 2, identified I think a reference to Certis Security.---Yes.

Does that mean that that policy was not effective at SNP until April 2018 or afterwards?---No, no, we had, we had, we had a policy in place in 2016,

sorry, in 2012. So that was the SNP policy. In June-July of last year, Certis rolled their whistle policy, whistle-blower policy into the SNP business.

So this one here, if you look at page 2, you can see about point 6 of the page, the whistle-blower report line and email are administered by FCB Workplace Law.---Sure, yeah, yeah.

Engaged by Certis Security Australia.---Yes.

10 So does that mean that this policy wasn't in effect until I think you just said June or July 2018?---Yeah, there was another policy in place prior to this, another whistle-blower policy.

Thank you, Commissioner.

THE COMMISSIONER: Thank you. Thanks for your assistance, Mr Roche.---Yeah.

20 You're free to go but I'm not going to release you from your summons yet. ---Okay.

But I will do so in due course.---All right. Thank you.

Thank you.

THE WITNESS STOOD DOWN

[11.41am]

30 MR ENGLISH: A bit of a slight change in the order, Commissioner. If I can now call David Owens (not transcribable) of the Commission.

MR SKINNER: Yes, may it please the Commission. My name is Skinner. I seek leave to appear for Mr Owens. I understand that my instructing solicitor Mr Willis has written to the Commission.

THE COMMISSIONER: Yes, no problem. Yes, leave is granted. Sorry. Mr Owens, will you take an oath or an affirmation?

40 MR OWENS: Oath, sir.

MR SKINNER: Your Honour, I seek a section 38 declaration as well on behalf of this witness.

THE COMMISSIONER: Take a seat.---Thank you, Commissioner.

Your barrister has sought from me a declaration pursuant to section 38 of the Independent Commission Against Corruption Act. I take it that he's explained the effect of that to you?---Yes, he has, Commissioner.

10 Just let me go over briefly what your rights and obligations are as a witness, and I'm probably repeating things that Mr Skinner's already said to you. 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 a section 38 declaration is that although you must still answer the questions put to you or produce the item that I require you to produce, the section 38 declaration means that your answer or the item produced can't be used against you in any civil proceedings or, subject to one
20 exception in your case, in any criminal proceedings. The exception is that the section 38 declaration will not prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, and most importantly the offence of giving false or misleading evidence. If you give false or misleading evidence to this Commission, it's a very serious offence, which the penalty can be imprisonment for up to five years. Do you understand that?---I do, Commissioner. Thank you.

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 him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on
30 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 HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON
40 OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Mr English.

MR ENGLISH: Thank you. Can you just state your name for the record, please, sir?---Yeah, David Owens.

What do you currently do for a living?---Consultant.

Is that through a business or a company?---It's through a company, yeah, it's a family company, Risk-e Business Consultants Pty Ltd.

How long have you been doing that for?---Since about September 2012 I think it started. I left the police in August 2012.

10 So you said you left the police.---Yes, sir.

What was your rank when you left the police force.---I was deputy commissioner.

And how long did you perform service for the New South Wales Police? ---I think it was just over 30 years.

Worked your way up the ranks?---Yes.

20 Now, I just want to ask you some questions about your involvement in a tender evaluation in respect of the 2015 security services contract between SNP Security and the University of Sydney.---Yes, sir.

You were a member of the Tender Evaluation Committee for the purposes of that tender?---I was, sir.

And how was it that you were invited to take up that position?---I had a phone call from Mr Smith asking to meet with himself and Mr Sullivan. I believe that was either late November or beginning of December.

30 Which year?---I think it was 2014, it would have been I think because it went from December '14 to March '15, yeah.

And you knew Mr Smith prior to receiving that invitation or that offer, did you?---Yes, I did, sir.

How did you know him?---He was a superintendent in the police above me when I was coming through the ranks.

40 Did you work at the same local area command as Mr Smith?---No, sir, we did not.

So how much, if any, contact did you have with Mr Smith when you were both at the police force?---Very little. From time to time you might bump into each other, but with the rank structure, he was superintendent and I was sergeant or inspector, so it's a different playing field.

Did Mr Smith ever request any favour from you in respect of your duties as a police officer? Did he ever ask you to assist with obtaining a medal for him?---No. I, I'd actually forgotten about that until I was interviewed by the investigators. No. It wasn't as a police officer, he'd asked, he'd sent an email, which I'd forgotten about, asking about a, post he, him leaving the police, they did a, I can't even remember the name of it, but it was an Australia medal that could be awarded and he asked could I make enquiries, was he entitled to it, and I made those enquiries and I think I even sent him a form that you just fill out and apply for the medal yourself.

10

So that was a medal that he could apply for in respect of his former duties as a police officer, is that right?---That's my understanding, sir, yes.

Did you provide any kind of reference or did you only provide him with the form?---No, definitely no reference. I just told him what the process was.

20

Now, upon accepting the offer to be a Tender Evaluation Committee member for that security services contract tender, other than – well I withdraw that. Did you declare formally a prior relationship with Mr Smith to the university?---No, I didn't because Mr Sullivan was there representing, Mr Sullivan was the hirer on behalf of the university.

And was it your understanding that Mr Sullivan was aware that you knew Mr Smith from yours and his work as a police officer?---Yeah.

30

If we can go please to Exhibit 70, page 168. This is a tender evaluation plan dated 1 December, 2014, project name security services provision. Are you familiar with this?---No. I know Srinath's name on it but, no, I can't recall the exact document.

If we go to page 174. You can see the committee members for the Tender Evaluation Committee and it identifies a number of names, including Srinath, who you mentioned, Mr Smith and yourself. Do you see that? ---Yeah, Mr Moeller and Mr Deakin.

40

Yes. And you can see that the advisor is identified as Zoe Davis and also a Vic Bouris. Do you see that, or Bouris?---Yes. Vic Bouris, I think it is, was the probity. Zoe Davis was procurement and I understand Srinath was procurement as well.

So I asked you before if you had any familiarity with this document. Is it becoming a bit clearer in your mind what it relates to?---No. I just know the position that, to and from. I've, obviously I have read the transcripts after Monday when I received the phone call and the subsequent summons, I've gone through and had a look at what different people questioning and that they were asked, but I don't independently recall that document, nor have I seen that.

All right. If we can go please to page 198, you see this is under a heading “20 Approvals.” Do you see that?---20.2, oh, sorry, yeah, 20 at the top, yes.

At the top of the page.---Yeah, sorry, sorry.

So there’s Management identified as 20.1.---Yep.

And then 20.2, Tender Evaluation Committee. And it identifies down the bottom David Owens’ email approval. Do you see that?---Yes, I do, sir.

10

Okay. If we skip forward, please, to page 202, we can see an email from you to Mr Vitnage on 4 December, 2014. Do you see that?---Yeah, I do sir.

Subject, TEP. And you say, “Happy for this email to be used as confirmation of electronic sign-off on both the TEP and methodology spreadsheet.”---Yes.

See that?---That’s correct, sir.

20

And the TEP is the tender evaluation plan that I suggest I showed you, which commences at page 168?---Yep.

Okay. So you agree you saw it at around this time, that’s 4 December, 2014?---Yeah, it says there I did, yeah.

Okay. And you’ve indicated that, that your email could be used as confirmation of electronic sign-off of both the TEP and the methodology spreadsheet. Is the Commissioner to understand that you would have read the tender evaluation plan at or around the time you sent that email to Mr Vitnage?---I believe I would have. I can’t recall independently reading it, but on that, yeah, I would have to say yes, I had read it.

30

It would be your practice, would you agree, to do, to read a document like that before you agree to be bound by it in that way?---Yeah, yeah, I’d agree with that.

If we can go please to page 179. This is the TEP document. You can see 13.4, Assessment?---Yes, sir.

40

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

Do you recall reading that at or around 4 December, 2014?---No, not independently I don’t, no.

And do you understand that that clause required that each member of the Tender Evaluation Committee to undertake their evaluation of tenderers using the evaluation methodology spreadsheet independently?---Yeah, “Independently record his or her scores,” yes, sir.

And so would you understand that to prevent you from discussing your scores with another member of the Tender Evaluation Committee?
---More so obviously, it’s difficult, Commissioner, because of what I’ve
10 read the last couple of days, is that to discuss the scores, yeah, to discuss the methodology I didn’t think was out of bounds. That’s the way I would answer it.

So you said it was your view that you shouldn’t discuss your scores, but you could discuss the methodology.---Yeah.

Is that fair?---That’s fair.

Okay. If we can please go to Exhibit 70, page 241. If you can see at the
20 bottom there’s an email from you to Mr Smith of 8 December, 2014. See that?---Yeah, I see part of it, yeah.

If we just go over the - - -?---Oh, thank you, sorry, yeah, thank you.

So, “Let me know is all good,” is on the other page.---Okay, yeah, that’s your signature block, yeah.

So, “Hello, mate. This may assist to see where we’re going along the same lines or if there is a need for adjustment.” Do you see that?---Yeah.
30

Now, did you see Mr Smith answered some questions in relation to this document?---Yeah, I did.

Okay.---I saw the transcript, sir.

Well, I can walk you through the document and the spreadsheet, but what it suggests – perhaps if we bring the spreadsheet up, which starts at page 243. This is a document which you annexed to your email to Mr Smith. You can see there you’ve highlighted in red certain matters under the comments
40 section of subcontractors, section 1.7. Do you see that?---Yes, I do.

And that’s a copy of the evaluation methodology spreadsheet, is it not?
---Yeah, I believe it is, yeah.

And do you see where it says no subcontractor used in red - - -?---Yeah.

You’ve identified a score of eight?---Yeah.

Now if we just go back to 241, down the bottom of the page you say to Mr Smith, "This may assist to see we are going along the same lines or if there is a need for adjustment." And then he responds back to you the following day, "Maybe some little high."---Yeah.

Do you see that? So would you agree from that at least Mr Smith is considering the scores that you've provided in draft in that attached spreadsheet?---In that, yes, it would suggest that, yes.

10 And then you say, "Try these ones. I had another look and valued down."
Do you see that?---Yes.

Now, if we go to - - -

THE COMMISSIONER: That's going a bit beyond discussing methodology, do you agree?---It's, Commissioner, the ones I was worried about highlighted, I have the practice of highlighting, and I do it in subsequent documents, if I need to come back and have a look. What I wasn't happy with is in the scoring, seven and eight were the same, the
20 values. There was a score list given from a master sheet, and from memory I think seven and eight were the same, and I was initially giving an eight for simply no subcontractors, and I was, that's the one I was struggling with is do I look at no subcontracting gets an eight simply because they have no subcontractors.

But the chain, email chain, starts with a statement by you, "This may assist to see that we are going along the same lines."---Yes, sir, in the methodology, absolutely, yeah.

30 "Or if there is a need for adjustment". Again, that goes beyond methodology, doesn't it?---No, sir, I seen it as, I see it for the methodology.

"Maybe some a little high. Try these ones." Doesn't that go beyond methodology?---No, sir, I don't believe so. That, that was my intent.

Very well.

MR ENGLISH: If we can skip over, please, to page 246, there's an email with a subject heading, "Let me know if you coming in. I be around this
40 morning finishing off spreadsheet."---Oh, okay, yes, thank you.

And that seems to be picked up from the email at the bottom of the page, which is from you to Mr Smith on 11 December, 2014, at 6.32am. Do you see that?---Yeah, that's what it looks like, yes, sir.

And then you say, "I shall let you know how I go. I have put today aside to finish it off."---Yeah, which is the spreadsheet I was working through, yeah.

Look, in fairness, there's an email before that that just says "DS", so it could have been Mr Smith, and you've said "re" so it's probably Mr Smith who's written that to you, "Let me know," that's the subject heading, "Let me know if you coming in. I be around this morning finishing off spreadsheet." Do you see at the bottom it says DS?---Yeah.

So I'd - - -?---I'm just, well, that's the, I'm only going on here. Down the bottom it's 11 December, 2014 at 6.22am.

10 Yes.---And then my response appears to be at the same, the 11th at 6.32.

Yes, and yours has a "re" so I'm suggesting to you that the subject heading was written by Mr Smith, not you.---I'd be guessing but I think it's a fair assumption, yeah, reading that.

Now then Mr Smith says to you on 11 December at 6.53, "Okay, just want to get together before hook-up on Tuesday."---Yes, sir.

20 And then you write back, "How are you situated Friday morning? That way I will be through spreadsheet and we can chat. I shall come to you at a suitable time." Do you see that?---Yeah, I do, sir.

And he says, "Okay, chat later." Now, if we can skip over please to 157. You can see that the phone hook-up on Tuesday is the Tender Evaluation Committee meeting number 1. Do you see that?---Yes, I do, sir.

On Tuesday 16 December.---Sorry, I don't, I'm not being picky, I don't think it was a phone hook-up, sir. I think it was in person.

30 Well, I'm just referring to Mr Smith's email to you on page 246, where he called it a phone hook-up.---Oh, okay. Yeah, I'm, I'm just gathering because it's got the date and attendees, so I'm gathering it was actually, we went, actually went in there.

Sure. So if we can just go back to 246, please. Do you recall having a discussion with Mr Smith about the spreadsheet prior to that phone hook-up?---No, I don't recall but I'm not disputing it one way or - - -

40 Yes, sorry, I've been reminded, it's not a phone hook-up, it's a hook-up. So I'm sorry about that.---Okay, no, that's all right.

But going back to the question about a meeting, do you recall any such meeting between yourself and Mr Smith prior to that Tuesday meeting? ---No, I don't but on this, it looks as if a meeting did occur. I can't independently recall one.

And then we can go through the exercise if you like but what occurs is that the items that you've identified in red, "No subcontractor," that turns to

black in your final version and you've dropped the score down from and eight to a six.---Yes. In those ones, yes, I alter a number of scores.

10 And specifically in relation to no subcontractor.---Okay, you're asking, sorry, the, question – I know what you're talking about but there were other scores I went back and added to the spreadsheet and I did go back and review as is a matter of procedure because if you start at one, you know, with your first one and you work your way through, what was this, 17 or something, however many applied, by the time you get to the bottom, you may have a different score and a different outlet, and that's why I highlighted in red if I wanted to come back and I did that in a number of other areas as well.

20 Sure. Well, if we can go to Exhibit 70, page 65, please. I'm sorry about the poor quality here. If we can just zoom in a bit more. See, it's got your name in the top left-hand corner. So this is the version that was ultimately submitted by you, and those "no subcontractor used" entries are changed from red to black and the score drops down from, you originally had an eight when it was a red, and now when it's a black you've dropped it down to a six.---That's correct, sir.

30 Now, that's the same score that Mr Smith ultimately submitted in relation to that same criteria for those particular tenderers, so what do you say, if anything, about the suggestion that you've had a discussion with Mr Smith and amongst yourselves agreed to ensure that those tenderers who don't have subcontractors are scored with a six?---I can't say we didn't have the discussion. As I said, I don't have an independent recollection about it but I was struggling, as I said, with an eight (not transcribable) subcontractor to look at some other things. I can't say it didn't occur and I can't say it did. I'm sorry, I just don't have an independent recollection of it.

Do you accept the proposition that you didn't, insofar as there's those entries for no subcontractor used, you didn't independently determine the scores for those tenderers?---No. I believe I did independently come to the scores but I certainly discussed the methodology with Mr Smith.

So it was your evidence that you didn't discuss the changing of the score for those particular entries with Mr Smith?---I can't recall that at all, no.

40 Thank you, Commissioner. That's the examination.

THE COMMISSIONER: Did Mr Smith ever express any preference to you as to who he might like to get the tender?---No, Commissioner. We obviously spoke about, there, there was a whole process where we all came together and we all put our scores in and then we would argue if you had a seven and a four, what was the median and we'd go through it. Obviously we asked, in the process, what was SNP, you know, how are they

performing because they had the current contract. So we did, we would have asked him questions about that.

Yes, anyone else?

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

10 When you were involved in the tender process in 2015, were you aware of a gentleman by the name of Mr Vic Bouris, who was the probity advisor?
---Yes, I was.

And did you understand him to be contracted by the university from an external agency to provide probity advice in respect of the tender?---That was my understanding, yes.

20 And did you understand that one of the things that could have occurred is you could have asked him for advice in respect of any matter about which you had some concerns from a probity perspective in the tender process?
---I understand that now, yeah.

You didn't at the time?---No, I didn't, I didn't think - - -

What did you understand his role - - -?---Hang on. I didn't think to do that, would be the correct answer.

But you understood that was available to you?---No, because I didn't use it, but in hindsight I should have used him, yeah.

30 Well, what did you understand him to be there to do?---For probity for the conduct of the meetings, discussions that took place, and yeah, I guess any questions that arose in respect to probity issues.

And is your evidence that it just didn't occur to you at the time to raise with him any concern you might have had about the process?---Yeah, about the methodology, that's correct sir.

Thank you. Thank you, Commissioner.

40 MR COLEMAN: Mr Owens, my name is Coleman and I appear for SNP Security.---Okay, sir.

You gave some evidence just a moment ago about perhaps discussions with Mr Smith about SNP, you know, how were they doing, they'd been the provider at the time of the tender.---Yep.

Was the discussions that they were doing well, poorly, what was the effect of those discussions, do you remember?---Discussion were that the, well,

Mr Smith I understood it talking on behalf of the university, they, they were doing well.

And was there any discussions about the fact that SNP were using subcontractors to provide some of their services at the site?---I don't believe so, no.

Was there any - - -?---Well, I asked, I think we asked specifically SNP, how they were performing, yeah.

10

And but was there discussion that around the use by SNP of subcontractors at the site at the time of the tender, in providing the services that they already were providing?---We may, yeah, I went back and had, obviously had a look at the spreadsheets and I made a note in the spreadsheet about SNP using, I used the term contractors, not contractor, but I specifically targeted Telstra Corporation I think it was or Telstra or whatever, and they were using them in, I think I even put in new, possibly in new arrangements or something similar to that.

20 Were there any discussions regarding the use of a corporation or company or guards by a contractor called S International Group?---No.

Or SIG?---No. The first time I've heard that is back in, when was I interviewed, October last year.

But you read the tender evaluation, did you see the tender provided by my client?---Yeah, I did. If it was in there I would have read it, but I don't recall reading it. If it was in there I absolutely concede that it was in there.

30 All right. And was there any discussion during the evaluation of the proposed use of subcontractors through SIG at the site by my client? ---I don't believe so.

Thank you, Commissioner.

THE COMMISSIONER: Thank you. Anyone before I call on Mr Skinner? No. Mr Skinner.

40 MR SKINNER: Yes, thank you, Commissioner. Just one thing, Mr Owens. You said to the Commissioner in answer to a question from him that seven and eight were the same. I mean they're different numbers. What do you mean they were the same?---They gave a, off the top of my head it was maybe poor, fair, good or, or average and then good and then above average, but the actually blocked them on these methodology sheets that procurement gave us, two together. So I remember seven and eight were together, so six and five were together, they were the same fair or - - -

You mean there were bands?---Yes, there were bands, but no scoring in the bands.

And the numbers, so I mean what were the numbers, did they go up to 10?
---Went up to 10, 0 to 10 I believe, yeah.

But there were only about five bands. Is that what you're saying?
---Yeah.

10

And seven and eight were bracketed in the same band?---Yes.

And what was, what was that band, as far as you can recall?---That was good. I believe it was good.

All right.---Good or very good, I can't remember which.

Thank you. That's all, thank you, Commissioner.

20 THE COMMISSIONER: Thanks, Mr Skinner.

MR SKINNER: Could this witness be excused?

MR ENGLISH: Not quite yet. What was the band that six was in, can you remember the name of that, please?---No, I can't. It'd, it'd be on the methodology document that we were supplied.

30 Okay. Something beneath good though, on your memory. Is that right? If seven and eight is good.---If seven and eight's good or very good, I'm not sure which, yes, it would be below that, it would make sense, yeah.

Thank you, Commissioner.

THE COMMISSIONER: Thank you. Thanks for your assistance, Mr Owens. You're free to go.

THE WITNESS: Thanks, Commissioner.

40 THE COMMISSIONER: And you're discharged from your summons.

THE WITNESS EXCUSED

[12.09pm]

MR ENGLISH: If we can call Mr Troy Swadling, who I understand is at the back of the Commission.

THE COMMISSIONER: Thank you. Come forward. Mr Swadling, will you take an oath or an affirmation?

MR SWADLING: Oath.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Take a seat, Mr Swadling. I don't think you're represented, are you?---No.

10 No. Let me explain something, let me explain to you your rights and obligations as a witness before this Commission. 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. You can object to answering a question or producing an item, and the effect of that is that although you must still answer the question or produce the item, your answer or the item produced can't be used against you in any civil or criminal proceedings, subject to one exception.

20 That exception is this, that objecting to giving an answer does not prevent your answer being used against you in a prosecution for an offence under the ICAC Act, and most importantly an offence of giving false or misleading evidence. To give false or misleading evidence to this Commission is a very serious matter and it can lead to imprisonment for up to five years. Do you understand that?---I understand.

Rather than you objecting to every question that's asked of you and then answering it, I can make a declaration that all of your answers will be treated as though you had taken an objection, so it's just a smoother way of doing things.---Understood.

Would you like me to make that declaration?---Yes, please.

30 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 him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection. There is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

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

THE COMMISSIONER: Mr English.

MR ENGLISH: Sir, can you just state your full name for the record, please.---Troy Anthony Swadling.

Are you currently employed?---Contractor with Sydney Trains.

Sydney Trains, was that?---Correct.

10 You used to work for SNP Security?---That is correct.

When did you start with them?---1995. I think about 23 years I would have been with them for.

When you joined SNP what was your role, your first role?---Security guard. Just worked my way through the ranks.

And what ranks did you go through until you – when did you leave SNP?
---The very end of 2017, maybe at the start of 2018. It was around that
20 Christmas shutdown period.

So as best you can - - -?---I would have worked through roles from security guard to night supervisor to night shift coordinator, account manager, into rostering and then final position would have been national operations team leader. Probably the last nine to 12 months of SNP.

Was there any reason in particular why you left SNP?---New challenge.

30 So your last position, national operations team leader, where were you stationed when you were performing that role?---At West Ryde, main headquarters.

And the position before that, was it (not transcribable) roster or – I just missed what you said.---National operations.

No, before that you performed a different role. What was that prior to - - -?
---Night shift coordinator.

40 Night shift coordinator. Now, which of those roles, if any, were you responsible for rostering duties?---The night shift coordinator would have given me exposure to time sheets. I would have been doing the Sydney Uni time sheets as the team leader, and - - -

That's as the national ops team leader?---Yeah, yeah, correct.

So you were doing Sydney Uni time sheets, then?---Yeah, yeah.

What were you doing in relation to Sydney Uni time sheets? What were your responsibilities?---The time sheets would come through via a fax, so usually the site would scan the time sheets into their printer and then email it from the printer across. We would then usually print them out and try and correlate them with what was in Microster.

You said you'd print them out and then try to correlate them with what was in Microster?---Correct.

10 So can you tell the Commissioner, you've had first-hand workings with Microster, is that right?---Yeah, yeah, hundred per cent.

What does it do, can you tell the Commissioner, please?---It is solely just a manpower system. So say with Sydney University, they wished to have a control operator doing a 12-hour day shift and a 12-hour night shift. A team leader doing a day shift, a night shift patrol and then Microster would then be split up into particular locations. So you would jump into one location that would say Sydney Uni team leaders, another one into Sydney Uni control room operator, another one into patrols, Kirkbride, different
20 campuses, things along those lines.

Now, did Microster perform any functions in relation to alerting for fatigue breaches or potential fatigue breaches?---It did have hard rules, so Microster was set up initially with soft rules and hard rules. So from what I'm gathering with here, the hard rules are what you're referring to in relation to fatigue and overtime breaches.

Well, I'm not referring to anything because I'm trying to learn from you. So can you tell the Commissioner please, what's the difference between the
30 soft and hard rules and how they were enforced?---A soft, a soft rule would be something such as your first aid certificate has expired or your driver's licence has expired. A hard would be in relation to you've loaded, say, Troy Swadling into a 6.00am to 6.00pm shift and then you've jumped into another different site and you're trying to load that same individual into an overlapping shift. It would give you that hard rule, saying, hello, this is not going to operate.

So soft shifts you said, you gave some examples of a licence number expiring or I think a first aid certificate expiring. What would happen if one
40 of those soft rules, did you get an alert?---Yes. It would prompt you with a, a soft rule, yes.

So if you got a soft rule alert, what would the action be that was taken?
---The majority of the time you would try and gauge exactly what that soft rule was and try and escalate it to, say, compliance because although we had a manpower system, you had, I think SNP called it the CRM, which was their compliance. So all of your details, security licence, driver's licence,

first aid, any form of accreditations that you would have to fulfil that particular role would be loaded in to the CRM.

And would the, for example, expiry of a driver's licence or a first aid certificate, would you get some warning before that expired or would the soft rule just come up, hey, this person now doesn't hold the relevant qualification?---The soft rule would, for myself, the soft rule normally only prompt you after the fact, so it had expired.

- 10 So then with the hard rules, you gave an example of an overlapping shift. What's an overlapping shift?---If I was covering 6.00am to 6.00pm as a control room operator and I by accident loaded, that, because obviously there's Smiths and Jones with all names, it's only an employee number that makes that slight variation an individual, so if I loaded the wrong Troy Swadling into a patrol shift, it would then give me the hard rule saying Troy is already sitting in a 12-hour shift in the control room operator.

So those overlapping shifts, they relate to, or they can exist in relation to the same site?---Yes.

20

And what about across different sites? Would you get a hard rule if there was overlapping shifts for an employee entered into Microster at two different sites?---I, I would believe so, yes.

When you say you believe so, are you not sure?---Well, you're asking me something that occurred a while back so I'm uncomfortable in saying yes to it.

- 30 Okay.---If I loaded John Smith into Sydney University as per a time sheet and then I loaded John Smith into World Square, so a completely different location, if it overlapped, then yes, it would definitely give me a hard rule.

Is overlapping shifts the only type of hard rule you're familiar with or were there other types?---It would usually highlight, depending on how the rules were set up with Microster itself. So usually if you're covering a 12-hour shift you need to have a minimum of an 8-hour gap before you can go back and cover another shift. So that would be another hard rule that would come into play within the system.

- 40 So, does the hard rule have scope to play in relation to fatigue issues, does it?---Well, it's given you a hard rule based on your not supplying that person a gap between shifts. So if you wish to class that as a fatigue, then yes.

What about someone who's worked, say, more than 14 hours in a day if someone - - - ?---14 hours was pretty much that maximum and 14 hours really had to be not forecasted. So you couldn't load an individual into a 14-hour shift a week in advance. It would really only allow a 14-hour shift

to occur because, say, with Sydney University you had someone doing a 12-hour patrol shift and then there was an incident on-site, whether that be a broken door or someone called in sick or having a car accident and not attending, then you could sort of extend them if they were willing.

If you tried to load someone into a 14-hour shift as an initial entry, that is before an incident arose, would you get a hard rule alert?---From memory, yes.

- 10 What about if someone was say loaded – I withdraw that. What if someone was loaded for say a 16-hour shift because an incident occurred when the person had completed their 12-hour shift? Would that create a hard rule issue?---That would create a hard rule issue, yes.

Could hard rules be overridden in the Microster system?---Yes, yes, because you had different users. So you had a TA, which was just transactions themselves, and then you had RA, which was you could go through those hard rules themselves. It would still prompt you to advise you of what the breach was but you could override it, though.

20

Who had authority to override hard rules within SNP?---Within the rostering team, the majority. It would only be your new staff, through that training phase, that you wouldn't supply that ability for them.

Do you know whether Microster then links with payroll so people can only be paid, for example, by reference to their hours on Microster?

---Whatever hours are loaded into Microster for that particular individual should be how they are paid.

- 30 Was there any other, is that the hard and fast rule, do you understand that people would only be paid as per their Microster shift times?---If I loaded 12 hours for Steve Jones, then Steve Jones would only get paid 12 hours for that shift as per Microster.

If someone was, for example, loaded into, for a 16-hour shift and there was an override of the hard rule, the person would be paid for the 16 hours, is that your understanding?---Correct, yes.

- 40 THE COMMISSIONER: Was there any instruction or guidance given to you as to the circumstances in which you could override the rule?---Not really, do you mean, yeah, sure, sometimes someone would be covering a 16-hour shift, worst-case scenario. The flipside to that would be you could have a Steve Jones covering a 12-hour patrol shift and then a person call in sick for a particular lock-up within the campus, whether that be Fisher Library or whatever, but that shift for the library is a lock-up so that lock-up, depending on whether or not it's a guard that's knows exactly what they're doing, they may only be able to complete that lock-up in a 90 minute

period but because it's a different shift, they're going to get paid the minimum four hours for it.

MR ENGLISH: So you were aware, were you, that, for example, lock-up tasks might be completed sooner within the allocated four hours?---I would think certain tasks anywhere that you work, you can complete a duty.

So that's your general understanding of the industry, not specific to Sydney University, is that fair?---Yes, correct.

10

Now, I'm going to get to some of the time sheets from Sydney University. You're slightly smiling.---The Sydney Uni time sheets were a three-page document. We used to have to constantly ask Sydney University, like, through, say, the team leaders or Daryl for the time sheets. Usually they would provide us the time sheets just before fortnightly pays would close, so we would usually receive a week's worth of time sheets on a Monday night or a Tuesday morning, and have a deadline of having to get all of that direct SNP employee information into Microster, otherwise it would cease all of the Sydney database being paid.

20

And what are your memories of the state of the time sheets that were scanned and emailed through to you and your team?---Unprofessional, ugly.

When you say unprofessional, what gave rise, what on the time sheet gave rise to you holding that view?---Because they would be provided to SNP via a fax machine, via scanning into a printer and then emailed across. On your normal days within Sydney University it would be reasonably easy to comprehend, but if you had open days or, I mean, large events that were occurring, it appeared to be a mad rush for individuals to sign their name with a start time and finish time, which made it sometimes somewhat difficult to understand what was written on those time sheets. A lot of the larger time sheets, say for O Week and whatnot, you would have to consult through S International and, say, Emir and Daryl to gauge exactly what was written on the time sheet, what was the reasoning for that shift. Because if you show time sheets, that front page and probably the second page will highlight the task, but then by the time you get to the third page, it's just open, it just says additional. So unless a staff member that's attending is fully aware when he rocks up on-site exactly what he's there for, he wouldn't place the comment of, I mean, a particular building or the, the incident that he's attending, so you would have to sort of consult through S International and the site on exactly the reasoning for the coverage.

30

40

Now, when you consulted S International or Daryl or Emir, for example, for a description of the work, was it the practice that you'd just be told orally what the work related to? Or would there be an amendment of the time sheet? Can you just explain the process there?---Time sheet variations, not overly frequent. Whatever they supply us initially is probably what we got

stuck with. They would usually verbalise or they would shoot back emails in relation to our questions.

What about missing information such as signatures? Did you see that from time to time?---Yes.

10 What was your practice when you saw a missing signature on a time sheet?
---For myself I would be loading it on the information that I was provided.
So if it had a name and a start and a finish time, that was enough relevant
information to load into Microster.

But if there's no signature, how were you able to verify in your mind that the guards had performed that duty?---How do I know his signature - - -

Well, no, there's an absence of a signature I'm saying. So no signature next to the guard's sign-in and sign-out time. Did you ever see that?---I would see time sheets that do not have a signature on them, yes.

20 And you'd just load those into Microster, those time entries, would you?
---Correct.

Did you ever receive any training as to what you should do if time sheets were missing, for example, signatures in the sign-on and sign-off boxes?
---Wouldn't I have to be provided their original signature to know what their signature looked like?

No, but here there's no signature. Maybe we're at cross purposes. Did you ever see occasions where the signature box was blank?---Correct.

30 So, you're not being asked to evaluate whether the signature is the guard's signature, you're just on face value not seeing a signature there.---Correct there is no - - -

So in those circumstances were you given any training as to what to do?
---No training, correct.

40 And did you just, even in circumstances where a signature was missing, did you just enter the guard's name into Microster at the times allocated in the site time sheets?---If he's written his first and his surname and a start time without a signature, yes.

What if there was a licence number missing?---I would, the same as what we've just spoken about a signature. If it missed the security licence, that would still more than likely get loaded in to Microster.

What about if there was only a first name written?---There would be some form of backwards and forwards to S International or to the site to try and ascertain who Sam was.

How frequently did you see, for example – and this is just going off your memory – no signatures provided in sign-on and sign-off parts of site time sheets?---I'm comfortable in saying when it was just the core hours, so when we were talking about the team leader, the control room operator, the patrols, the lock-ups, you usually, a good percentage would be completed correctly. When we would get to those events where there was O Week or particular events occurring on-site, that's when that percentage would decrease.

10

And did you raise the decreasing percentage of information for those additional shifts with anyone at SNP, that the time sheets weren't containing sufficient information when there's a busier week?---The, the sufficient information of a security licence and signature?

Yes.---No, not raised.

Did you ever receive any training as to what you should do in circumstances where information of that nature wasn't contained in the site time sheet?

20

---No. I'm comfortable in saying the time sheet that you were showing me is a template that I put in place for Sydney University in the first place because whatever was there initially had less information on it.

You mean less typed information?---Correct. So it was just empty boxes.

What about Liquid Paper, if you saw evidence of Liquid Paper on a time sheet, did that ever occur?---Well, I know that it's obviously occurred because I can remember someone telling me something about ICAC and Liquid Paper. So I'm comfortable in saying if I crossed paths with a time sheet that had Liquid Paper on it, I would be highlighting that back to the site in relation to what sort of information you're now providing me.

30

And how would you highlight that back to the site?---Truth and honestly, do you mean if, if, if it looked like a name had been written underneath the Liquid Paper and then another name over the top, I would be trying to understand why that occurred.

And would that be by way of email or telephone call, can you explain, please?---Either/either. Usually an email, so, I mean, so you do have a paper trail instead of it just being some form of verbal conversation.

40

If Exhibit 107 can be brought on the screen, please.

THE COMMISSIONER: While that's coming, I think you described the time sheets sent from the university as unprofessional and ugly, I think you said.---Yeah.

Were you processing time sheets from other sites, SNP sites?---Correct.

Did you strike a similar sort of problem from other sites?---Not to the same category as Sydney University, no, but I mean Sydney University was a larger contract for SNP Security.

10 Right.---There would have only been a small portion of other locations, University of Wollongong, where their site manager was very professional in the way he would provide his information. He, do you know what I mean, Frank was capable of providing you an RFS, a work order, so an RFS
10 from SNP, a work order from the site, who was covering the shift, the reasoning behind the shift, which made it very easy to align what was coming out of the site to Microster. Sydney University was always after the fact. Sometimes we would receive an RFS from Emir or Daryl advising of particular services, so I mean, sometimes you would have an RFS coming in saying a shift is on Friday night for four hours and we need 10 staff, and then when the time sheet would come in, that time sheet would not reflect that particular RFS number or whatever that event was, or the shift times would align, the date would align, but there would be 12 names on it
20 instead. So you would then have to go back saying, your RFS says this, you've provided me a time sheet with this, are these just additional coverage within this RFS, and, and go backwards and forwards with the site to try and find out what was going on.

Thank you.

MR ENGLISH: Mr Swadling, did you ever escalate any issues you noticed with respect to the unprofessional and ugly practice of the site time sheets and your evidence there just by reference to the RFSs and the extra work you had to do?---Probably only back to the site.
30

Okay.---Probably only back to Daryl, but that probably would have been it. Because from my understanding, your time sheets didn't necessarily have Daryl signing off on them, but the team leaders, your four team leaders that were looking after each team would have been fully aware of what was written on those time sheets and I assume were the ones sending the time sheets across, so yeah, escalate back to site, not necessarily within SNP themselves.

40 If we can go to the fourth page of the exhibit on the screen, please. You can see, I think this is the first email in time. Just so you're aware, it's an email on 23 November, 2017, from accounts at S International. "Hi, Kerryn. My apologies. We just received a call from our guards claiming one shift at Cumberland Campus is missing. I've highlighted, I've amended and highlighted the roster. Please find attached the updated roster and invoice. Thanks."---Yeah.

So that's the second in time, I'm sorry. Do you know who Kerryn is?
---Kerryn does the invoices. So background, Kerryn originally worked with
- - -

She's in payroll, is she in payroll or - - -?---She initially worked in the
Sydney Trains contract when we held that. When that come to an end she
was transitioned across to complete the guarding invoices.

10 Okay. All right. If we go up one page you can see she responds, saying,
"Please amend your invoice to reflect the following." Do you see that?
---Yeah.

And there's a further response where a time sheet's provided and an update
in relation to John Adams' shift hours. Do you see that, and there's a
reference to an attached updated summary and invoice?---Correct, yeah.

20 If we go, yeah, on 24 November, 2017, there's an email from national
operations at SNP and there's no name on the signature, or sorry, it says,
"Regards, Troy," so it seems like you've responded here.---Yeah.

You just want to read that to yourself.---Read.

Thanks. So you say, "USYD patrols is contract locked, meaning I," is that
"can't add additional shifts when everyone is" - - -?---Yeah, I would say I'm
missing a T there.

30 Yes.---So by my wording of contract locked, as you guys were highlighting
before with the tender, there would have been certain areas within Sydney
University such as the patrols, the team leader.

This isn't an ad hoc shift. This is a contract shift.---No, this is a contract
locked so, do you know what I mean, if the contract is for a four-hour shift
Monday to Friday, I can't make it a five-hour shift.

40 I see. And then you say, "Had John Adam written within the comments
1800 to 1900 report writing, then I could have assigned that hour under
USYD additional." What do you mean by that?---Well, obviously that one
hour they, S International have obviously placed it into Sydney Uni patrols.
So when S International have provided their invoice, they would have had,
say, 101 hours for patrols, but Microster can only have 100 hours in patrols
'cause it's contract locked. So additional is where all your extra services are
occurring, so something like report writing is obviously additional.

But he's doing a patrol shift, isn't he?---Correct.

So are you suggesting that something misleading should be entered into the
site time sheet under the heading Additional?---No, I'm highlighting that
they have one hour sitting under patrols. I cannot load additional hours into

patrols. So he cannot be covering an extra hour on patrols. If he's on-site for an extra hour, he must be on-site for a different reason. So I've obviously worked out that he's been on-site for that additional hour to complete report writing, and that needs to be loaded into the Sydney Uni additional if they wish to be paid for it.

All right. But that wouldn't be accurate - - -?---I'm, I'm trying to educate them.

10 But that wouldn't be accurate, would it?---Um - - -

Do you say it would? It'd just be a different location where it's entered on the site time sheet?---Correct. Different location than it should have been. They've placed it at one site, and the way I read it, it should have been placed into Sydney Uni additional because report-writing is a completely different task.

20 But he's not doing report writing. He's doing patrolling. Are you suggesting he should have written that he was performing something other than what he was actually doing, this Mr John Adam?---Well, I'm trying to explain to them that I can't add extra hours into a contract locked location.

If we can go up one page, please. You see your email at the bottom, on 24 November, 2017, at 10.43. You say, "All, Daryl has confirmed that this one hour is not payable. Please remove from the invoice." You say, "It would also be greatly appreciated if time sheets are not amended and then re-sent, as some would see this as ghosting shifts or fraud. Regards, Troy."---Yeah.

30 What led you to write that second paragraph?---Because they're trying to charge us for an hour and then Daryl's saying it's not payable. And if I'm writing the, if time sheets are not amended and then re-sent, then, do you know what I mean, it begs the question on the reasoning behind it.

Well, is that something you noticed at the time, that time sheets were being amended and then re-sent?---I'm trying to make sure that they're not doing things like that.

40 But can you just attend to the question? Is that something you noticed at the time, that time sheets from Sydney Uni were being amended and then re-sent?---I will say, yes, correct.

And that obviously, in your mind, as at 19 November, 2017, at least, raised a concern that some could see it as ghosting shifts or fraud.---I've put that as my opinion, so in my opinion, yes, it could be seen as ghosting or fraud if, on receiving time sheets that have been amended. Correct.

Did you have any knowledge that ghosting shifts or fraud was going on at Sydney University at that time?---No, not until two weeks ago.

If you'd seen the potential for shifts that were amended and then re-sent as being ghosting shifts or fraud, firstly, did you raise that with anyone at SNP more senior than you?---I'm comfortable in saying that I would have gone directly the site, not escalated to my manager, being Linda at that time.

Why not?---Because it was resolved.

10 The time sheets kept coming in a manner that looked like they'd been amended, wouldn't you agree?---There were times where time sheets appeared to be amended like I've highlighted those. That could come down to an employee added too many hours into a contract lock location. Instead of writing 6.00 to 12.00 patrols and then 12.00 to 18.00 Kirkbride, they would just write 6.00 to 18.00 patrols. So I would need to try and individualise where that employee was covering the shifts within Sydney University.

20 One reads your previous email that you're suggesting that staff could write a different task in under additional if they wanted to be paid for extra hours. Then one looks at your email that's on the screen where I think you said you'd seen an amended time sheet in that triggered issues of potential fraud in your mind - - -

MR COLEMAN: I don't think that's what he said, Commissioner. I'm sorry, I don't act for this man, I think that's unfair to put it that way.

30 MR ENGLISH: All right. I'll rephrase it, I don't want to be unfair to him. I thought you'd said you'd seen a particular time sheet that gave you, that was amended and re-sent that in your mind raised an issue of ghosting shifts or fraud?---I had written it would be greatly appreciated if time sheets are not amended and re-sent. That is obviously where I've come with the opinion of ghosting shifts or fraud.

Are you providing any advice to those at Sydney University by these two emails as to how they could get away with ghosting shifts or fraud?---No.

This email is sent from you to accounts as S International Group and McCreadie and accounts payable. Do you see that?---Yep.

40 You can see McCreadie's response, "Thanks Troy." Then he goes on to say, "True what Troy is saying, don't attempt to alter time sheets. If there are discrepancies I'd rather see the mistake to investigate and confirm rather than having anyone try and alter for the sake of passing through an invoice. It looks bad and sloppy practice." Do you see that?---I have read it, yes.

Then it's forwarded. Unfortunately we don't know from accounts at S International Group. It says, "Hi all, please find attached." Do you know if McCreadie's email from 10.51am was distributed to the guard force at

Sydney University?---I would think that that's all in relation to an invoice that S International had provided that Daryl has done the investigating.

I'll just ask you, do you know if this email was distributed to the guard force at Sydney Uni?---I have no idea.

So this email's on the 24 November, 2017.---Correct.

That we've just been looking at.---Yes, yes.

10

So if we can please go to Exhibit 43 at page 20. This is a time sheet from Sydney Uni from 11/12/17 so some slightly more, two and a half weeks after you've written your email.---Yep, yep.

And you can see on the page that there's no licence number and not many signatures for the people under Fisher Library extension, do you see that? ---I do.

20

And is your evidence that you just would have entered these details into Microster?

MR COLEMAN: On the assumption he saw this time sheet.

THE WITNESS: Correct. First name, start time, finish time, location, yes.

MR ENGLISH: And were you responsible for entering these time sheets from Sydney Uni in to Microster at around this time?---Correct.

30

So Bernadette, there's only a first name there. How would you have entered that?---From loading them over numerous occasions, I would know that Bernadette has written her first name but aware of what her surname was or she could have already been forecasted in Microster into that shift as well.

40

LM. How would you have known who LM was?---I would have had to, more than likely, investigate. There is the possibility as well that some, say LM, may not have been within the compliance database and loaded solely as the agency being S International. So you could have Steve Jones as an SNP employee, you could have Steve Jones as S International employee, you could have Bernadette as an S International employee, you could just use S International as the agency as well within Microster.

And if we go to page 15. Here again, you see all this missing information, licence numbers and signatures.---No licence, no signature, yep, yep.

So you just, again, would have entered this information in to Microster, would you?---Correct.

Was there anyone else who was responsible for entering the data from these time sheets from Sydney University at around this time?---Everyone within the national operations team would have had the ability to load the time sheets in. The majority of the time, it was myself that would complete that task, but like I say, majority of the staff had that ability to update it if they please.

If we can go to page 42, please, oh sorry, page 8, there's two numbers here, I'm sorry. Do you see Atif Ali?---Yep, fifth from the top, yep.

10

Yes. 15 December, 2017. Looks like, Liquid Paper's been applied, do you see that?---Correct because the line's missing. You could say the same for Sherif Hafaz.

Yes. And there's no signature for Atif Ali and there's no licence number. ---Correct.

20

So this is, you know, 20 odd days after you've written your email about time sheets appearing as ghosting shifts or fraud. Do you recall seeing this particular time sheet for Friday 15 December, 2017?---I do not recall it.

Had you see it, would the issue of Liquid Paper have raised any concerns in your mind?---I would like to think that if I actioned it, I would have highlighted the unresolved issue but I can't confirm that I dropped these shifts in to Microster on 15 December, 2017.

30

When you sent that email, which is Exhibit 107, it's from you at national operations to accounts@sinternational and McCreadie and accounts payable. I mean, that centralised nationaloperations@snp, would other people in your team have had visibility over the email?---Yes. It was a group email. So it, it should then return back in to the inbox.

So everyone at the national operations centre should have seen that you'd sent that email at around that time?---If that email was not archived or placed into a folder as soon as it hit the inbox, yes, they had the visibility to see it.

40

So what's your evidence would have been the proper thing to do for anyone who was required to enter the data on this time sheet, which is on page 8? Having seen your email about ghosting and then seen the Liquid Paper that had been used on this time sheet, what should people have, what should a worker have done?---I would like to believe that it would get escalated back to the site, back to the team leader, back to the site manager.

But you're superior to McCreadie, aren't you?---No.

So McCreadie, you see him as a supervisor to you, do you?---Well, he is an account manager/site manager for large contracts.

I think he was a site manager at this stage.---Previously an account manager.

Previously an account manager, yes.---And then put forward to look after solely Sydney University and other accounts.

So I keep asking about escalating, and your evidence is that you'd raise it back with the site.---Yeah.

10 Don't you see escalation as something that would have to go through head office at SNP?---For Liquid Paper on a time sheet?

Well, yes, for that example.---I see it as going back to the location to find out what the underlying issue is.

What about multiple entries of Liquid Paper on a site time sheet?---Do you mean the two?

20 No, not there. I mean on different site time sheets.---If it was consistent, then, yes, it should be escalated to someone within SNP Security.

Was there ever any training, to your understanding, on prohibition against the use of Liquid Paper in site time sheets?---Liquid Paper on a particular document that is being utilised as a time sheet would be seen as something that shouldn't be occurring. So, I mean, seeing that now I would like to think that we escalated it back to Daryl, but obviously not.

30 Can you go to Exhibit 42, page 50. Can I just ask, when did you first start, if I haven't already, in the national operations centre?---Guessing probably 2008-2009. I know 2004 I started at the head office, but that would have been sort of night shift coordinator. I would think that somewhere in that four-year period before I was doing day shift on a consistent basis. But I'm guessing.

That's as a team leader in the NOC, is it?---No, that was just, at that point we were only Sydney based, not national, so that was just a team of three.

40 When did you become team leader in the NOC?---National operations, for me it wasn't even called NOC at that point, but I remember that Peter Papagiannis left SNP Security and that Dom and myself were given the opportunity to take over that role. I'm comfortable in saying I was only the team leader for maybe 12 months before I resigned anyway.

Do you see this document? This is for an info day on 16 December, 2017. ---Yeah, yeah.

Do you see a similarity in the names, the handwriting for the names?---Yes.

Is that something you would have paid any attention to at the time, if you entered that data into Microster?---No, not overly. Do you mean - - -

10 Were you given any training on things to look out for as potential fraudulent conduct in site time sheets?---For something like that, no, not really. Even with that you would like to believe that info day on 16 December, 2017 was something that was forecasted prior so instead of one individual writing all of those names, they could have used a computer to print those names with the licence numbers and a start and a finish time and just get the individuals to sign off on it. So the signatures look different but the names do not.

Okay. Can we go to Exhibit 43, page 1, please. Now, we're back on Sunday, 17 December.---We are.

Do you see evidence of Liquid Paper on this form?---For Claudio it looks like and Sameh Haroun.

20 MR GIVORSHNER: Commissioner, with respect, again I don't represent this person, but is there any utility in continuing to get the same evidence over and over again about the same thing over and over again? It appears to be not expanding our knowledge of the system, it's just a repeat.

MR ENGLISH: This is the last, this and, probably this page is the last, Commissioner.

THE COMMISSIONER: Yes. Go ahead.

30 MR ENGLISH: So here you can see it in respect of two entries there I think you've identified. Do you recall seeing this sheet?---I do not recall seeing it, so, but that doesn't necessarily mean that I didn't or I didn't load it into Microster neither, so - - -

And is your expectation if someone saw this evidence of Liquid Paper, what, it should have only been raised back to the site?---That is a later date, so like you highlighted in my email that's what, 24 November, it's consistent occurrence on the following three time sheets that you showed me after the initial email that I sent, so different names but still occurring.

40 So what does that say to you, that it's different names still occurring - - -?
---That they're - - -

- - - three times in this - - -?---That they're not - - -

- - - in this weekly sheet?--- - - - adhering to the request that was put forward and that it should have been escalated to a hierarchy with in SNP Security.

And within the office.---Yeah, yeah. So say for myself at that point, probably either Peter Papagiannis or Linda, unsure which one was um, at the top end.

Is that a convenient time, Commissioner?

THE COMMISSIONER: Certainly. Have you got much longer to go with this witness?

10 MR ENGLISH: Probably not, no.

MALE SPEAKER: Give him time to think of something.

MR ENGLISH: Look, I can try, I can try and wrap him up.

THE COMMISSIONER: It might be an idea I think. I'll get an indication from other people.

20 MALE SPEAKER: Commissioner, I've got five minutes of questions for this witness.

THE COMMISSIONER: You've got about five.

MR C. WATSON: I'll be about the same.

THE COMMISSIONER: We'll adjourn and come back at 2.00.

LUNCHEON ADJOURNMENT

[1.04pm]