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INDEPENDENT COMMISSION AGAINST CORRUPTION

STEPHEN RUSHTON SC
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PUBLIC HEARING

OPERATION GERDA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 27 FEBRUARY, 2019

AT 2.00PM

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

MR ENGLISH: Commissioner, Mr Swadling was just here.

THE COMMISSIONER: The oath that you took prior to lunch still binds you.---Yeah, that's fine.

Thank you. Have a seat.

10

MR ENGLISH: All right, Mr Swadling, can I just ask you, remember your email which was Exhibit 107, the ghosting email for want of a better word? ---November, yep.

Yes. 24 November, 2017. It was copied in to apayable@snpsecurity.com.au.---Accounts payable.

20 Yes. Do you know who would have received that?---That's a group email, I could hazard a guess that Vivian Bryant, but the others within accounts payable, not a hundred per cent sure.

Thanks. I just want to ask one more question about Exhibit 43, page 1. Do you see the signatures next to Kirkbride, the bottom right-hand side? ---Yeah, yeah, Rozelle for Ikhlass and Parwiz?

Yes, correct. Do you see any similarity in those two signatures on the right-hand side for Parwiz and Ikhlass?---They look very similar.

30 Now, having made that observation there, if you would observe that, having processed the information on this sheet, would you have done anything to escalate that issue?---Had I observed it at that point in time, probably but again my escalation would have probably just been directly back to Daryl not SNP.

Now, just in relation to the issue of missing information from the time sheets, you recall I went through licence numbers missing and signatures missing?---Correct.

40 And your evidence on that was that you would enter that information into the Microster system, notwithstanding the gaps in that information being present on the time sheet?---I require a name and a start and a finish time.

So is it fair to say that you took no steps to have McCreadie ensure that information of that nature was included in the time sheets?---No steps.

Did you ever have cause to review any of the original time sheets that were kept at Sydney University?---There would always be discrepancies when it came to larger events and instead of just that - - -

No, just, I don't think you're - - -

MR COLEMAN: I think he's trying to answer.

MR ENGLISH: Well, no, the question was did you ever review the original time sheets that were kept at Sydney University?---No. Only what was provided via a, the printer or scanner.

10 The scanner and the email. To your understanding, well, I guess this was a unique site, wasn't it? Insofar as SNP operates, would you, in the national operations centre ordinarily have the original time sheet or you'd only get a scanned copy?---Only what came through, scanned or emailed to us.

And that's for any site, is it?---Correct.

And are you aware of any procedure whereby originals would ever be checked, that's of the time sheets?---I would assume they're just archived on-site. At no stage have I ever seen an original come from Sydney
20 University.

What about if you've got concerns about Liquid Papering. Would you ever want to go and have a look at the original document?---No.

So does the Commission take it there's no training or policy that ever requires people in the national operation centres, so far as you're aware, to look at original site time sheets?---Correct.

30 If Exhibit 38, page 186 can be brought on the screen, please. This is an email from you to Lynn at S International Group to SIG services, do you see that?---I do.

You've got a subject heading, "Monday 1300 hours." See that?---Monday equals 113 hours.

Sorry, Monday equals 113 hours, yes. And you've copy and pasted a table into the body of the email.---I have.

40 You haven't included any other copy other than your signature block into the body of the email, so can I ask you this, what are you doing by sending this email to Ms Lynn at SIG Services?---The pretty coloured Excel spreadsheets would obviously come initially from S International when we're trying to align the invoice for the week. So by the looks of it, we're obviously just highlighting 22 August for the additional services on-site. So within the comments of the Excel spreadsheet, that's obviously what S International are providing me and then I'm assuming that the information to the far right aligns to say SNP RFS for the campus lock-up information just advising that it's requested directly from Dennis Smith. I think I mean

additional services for Fisher Library, so on and so forth, just trying to align what we would have had in Microster to what S International are invoicing us for.

And you're speaking or you're sending an email to Lynn at SIG Services.
---Yep.

Did you have occasion to speak to her on the phone?---It was easier to communicate with Lynn via email.

10

And what, you'd do that regularly, would you?---100 per cent. Invoice from S International, like any subcontractor, would be paid weekly, so it was just trying to align any discrepancies which what they have as an invoice compared to what Microster has loaded for coverage.

Were you provided with the details of a mobile phone number that you could call in relation to any SIG rostering queries?---They would have a landline.

20 They had a landline, did they?---Yes.

And did you ever call anyone on that landline?---Oh, 100 per cent. I would have spoken with obviously Lynn, Summer, I think I only ever spoke to Tommy via his mobile phone, but Tommy was usually in relation to requesting a guard.

Did you ever speak to someone called Frank on a mobile phone?---I'm going to say no. Frank as in the team leader on-site?

30 Well, anyone called Frank to start with.---No.

Did you ever – when you say Frank the team leader on-site, are you referring to Frank Lu?---Yeah, correct.

Did you ever talk to him about rostering issues?---No, it was really only from an S International perspective the names that I provided, the ladies or Tommy. When it came to Sydney Uni time sheets and trying to reconcile them, Daryl or Emir.

40 Did you ever receive any emails from someone – I withdraw that. Did you ever receive any emails or send any emails to roster@sinternationalgroup?
---I believe I would have, yes.

Do you ever recall a person by the name of Frank responding to such emails or sending emails from that address?---I cannot recall Frank being a signature on the bottom of that email, no.

Just, sorry, I know I asked you before, but when did you leave - - -?---Oh, it was right at the end of 2017/start of 2018.

That's when you left SNP?---Left SNP, correct.

10 All right. Thanks. If we can go please to Exhibit 40, page 273. Sorry, Exhibit 40, page 273. All right. If we can go back to page 274, you can just start with the email at the bottom of the page. There's an email from lynn@sigservices to Matthew. Do you see that?---Yeah, Matthew Ceccato, yeah.

Are you familiar with who that person is?---Oh, only I worked with Matthew at Sydney Trains.

But he was a co-worker or a colleague at SNP, was he?---Correct, just another rostering coordinator like myself at that point.

20 And so this is in October 2016, you were a coordinator then, a rostering coordinator?---Correct. I would probably gauge that it was Matthew, myself and Domenic as rostering coordinators.

You can see what the message to Matthew reads, if you just read that to yourself.---Read.

So then he responds to say, "Sue going through time sheets today and will advise as soon as possible."---Yeah.

30 And then I think there's another message from Lynn to Matthew Ceccato. Are you right, you can see that on the bottom of 273?---Yeah, yeah.

If we go up one page, please. So that's her saying, "Thank you." And then there's a message from Lynn on 4 November, 2016. It says, "Hi, Troy. Below is email regarding to Kerem Akkan's four-hour payment issue. You mentioned four hours which SIG should be paying during 19 September, 2016 to 2 October, 2016, however we do not know for which date and hours have been paid by SNP and then we can't invoice that four hours without details. Would you please look into that today or next Monday. Thank you."---Yep.

40 And then it says, "Please provide a separate invoice as follows."

MR COLEMAN: Where are you - - -

MR ENGLISH: Sorry?

MR COLEMAN: Where are you looking?

MR ENGLISH: At the top, at the top, the email from national operations to
- - -

MR COLEMAN: Okay. It wasn't on the screen.

MR ENGLISH: Oh, I'm sorry. If we can go up the top, if that can be brought down a bit more, please. There we go. Email from national operations centre to Lynn, copying in you, and it says, "Please provide a separate invoice as follows, USYD additional. He was paid 96 hours under SNP but covered 100 hours."---Yep.

Now, can you assist with this. The first email you read on page 274 talked about Mr Akkan working 96 hours per week and Sue, rather, her email to you on 4 November covers a period of 14 days. Are you able to assist?
---I would hazard a guess that because it had what looked like a pay period, so a 14-day period, that that would have aligned to SNP employees being paid, so all of those shifts would have had to have been locked and loaded and then paid to the direct employees. The four hours could possibly be a discrepancy between whether or not Kerem was being paid four hours overtime with SNP Security or four hours as a S International employee. That's what it would appear to be.

Well, we've got some rosters for Mr Akkan. Commissioner, these were provided by Ms Willard's lawyers. I might hand up a copy to you and have it tendered, Commissioner. Do we have a copy that can go on the screen? No, it might have to go round in hard copy, but we've got some copies here. I'll hand up two copies if I may.

THE COMMISSIONER: Sure. Thank you. That will be admitted into evidence and marked Exhibit 135.

**#EXH-135 – SNP PERSONNEL ROSTER OF KEREM AKKAN
DATED SEPTEMBER 2016 TO OCTOBER 2016**

MR ENGLISH: Now, I'm just wondering, so if page 274 can come on the screen, please. Mr Swadling, if you can just see the bottom email, so it's suggested in that email that Mr Akkan says he worked 100 hours for last week.---Yep.

And apparently SIG needs to pay Mr Akkan any hours that's over 96 hours per week.---Yeah.

Can you look at this roster and say whether that is accurate, whether that applies to a week, or is it a different period? That's Exhibit 135 you've just been handed. If you can assist in any way, that would be helpful.---To me it

would be more than one week, pay fortnight, he's covering what looks to be Monday to Friday over a two-week period. Only look at page 1?

No, no, no. Look at all of the document, yes.---Okay.

10 I think there's some overlapping dates between the pages.---If I was to make an assumption, I would assume that Kerem was probably covering on a rotating roster. So let's just say he was covering two day shifts, two night shifts consisting of 12-hour shifts and over a pay, so four on, four off, so I could assume that although he's been taken out of his core roster, say out of patrols, he's been, then been moved across to cover a particular position under additional. So because we would have him loaded as a direct employee with 96 hours following his core-hour roster, what we've done is then tried to align it to this additional service. So when you look at page 2, that 1.00pm to 5.00pm on the Friday the 30th is a portion of what would have consisted of a 10-hour entire shift.

20 So can I ask you if he's loaded – I withdraw that. Why, do you understand, there may have been a need for him not to be paid for the full 100 hours using SNP?---From memory, and I'm comfortable in saying it would have been, Daryl would have informed us at some point which employees were happy to do additional hours overtime as a direct employee, and others that were happy to cover their base hours at SNP and any additional hours under S International.

But that would mean, would it not, that Mr Akkan was getting less money? ---That I cannot, I, I don't know what S International were paying. I can make that assumption and say yes.

30 But would you expect that if he was to be paid those extra four hours from SNP, that would accrue an overtime loading?---Yes, two hours time-and-a-half, two hours double time.

Now, this request from Daryl you spoke of, what's your understanding of guards performing overtime duties through SIG rather than SNP? We're talking about SNP guards at Sydney University.---The reasoning behind why they would want to do that?

40 What's your knowledge of that? Was this the first time that that possibility arose so far as you're aware?---I think it was a little bit over, over a duration of time. So initially you had all your direct employees loading up on overtime and then for some apparent reason certain individuals then started to have a Troy Swadling SNP and a Troy Swadling S International, like, employee ID within Microster. So, I mean, you would highlight, Kerem would get 96 hours as a direct employee and then there would be another Kerem within Microster that was loaded as an S International Group employee.

And when did you notice those changes occurring in Microster? Is that the 5-5 number and the 1-0 number?---5-5 is a contractor and a 1 is a direct employee.

So when did you first notice that change being introduced?---If I was to hazard a guess, probably somewhere in 2016.

10 And you must have received some instruction as to the fact that that was to occur.---Daryl would have highlighted which individuals, S International would have had to provide, like, a compliance database on a monthly basis of who all their staff were. That information would then have to be loaded into our compliance database, the CRM and those names, such as Kerem, would then be loaded into the CRM, which would then generate a Microster employee, your 5-5.

Right. But Daryl didn't have access to Microster, did he?---I'm unsure. I would assume he would.

20 But he didn't work at the national operations centre?---No, he did not.

Right. So at some stage this 5-5, the capability of a 5-5 number has been introduced into the system.---Yeah.

Do you know who introduced that capability and then informed for example yourself that the capability now exists and this is what's to happen in the future?---From memory I recall Daryl highlighting which individuals would do their base hours and overtime as a direct employee, and others that would load up for any additional hours as an S International employee.

30 But that's identification of the people that wanted to be paid in that manner. ---Correct.

Going back to the way that the system - - -?---Originally?

- - - was set up.---Yeah.

So someone must have set up Microster so it could operate in that fashion. You understand?---Yeah, yeah.

40 Okay. And then you must have been told by someone that for these people you're to use a 5-5 number and for these people you just use the normal 1 number.---Yeah.

Okay. Putting to one side the instruction as to who wanted to be paid in that way, who was it from SNP that told you about the system's capability and gave you, it might have only been brief training, but a brief explanation of how the system could be used that way?---It was just common knowledge on the functionality within Microster.

Right. So it existed before McCreadie gave those instructions, is that right, that functionality?---Yes, because we've always had contractors at other locations, so instead of loading them as an agency, say S International, you tried to individualise it to an actual employee of S International. So you could have their full name sitting in the roster as that subcontractor instead of it just saying S International is the agency.

10 All right. So this capability in Microster for an SNP employee to have a 5-5 number and 1 number - - -?---Yep.

- - - that existed for sites other than Sydney University, did it?---No, I think it was only Sydney University. I, I would struggle to think of another location that did that.

20 So was it for other contractors at Sydney University that that capability existed. Is that your evidence?---Pretty much you could individualise it solely down to S International. I think at one of our other contractors, Manpower I think they were called, had one employee that worked at the Cumberland Campus that would do pretty much the same, but it was just that one individual and in truth that was one a blue moon that any additional hours that would get loaded to him because it wasn't a site that had that ad hoc functionality to it.

30 All right. And when, as best you can recall, was the functionality introduced into Microster that allowed this second description for an employee to be utilised as the 5-5 versus the 1 number?---I'm comfortable in saying once we transitioned across from PowerForce, our previous manpower system, to Microster, it always had that functionality to individualise an agency to an individual of that agency.

40 Okay. And when was that?---I would hazard a guess maybe 2014/2015, probably '15. I know we had to do a three-month parallel run to make sure that Microster had the capabilities. With PowerForce, our previous system, it didn't really have that functionality all the time. We were trying to, with Microster we were trying to individualise our rosters. So if we had S International covering ABC building, instead of it just having 168 hours per week loaded as S International, we tried to individualise it so John did four day shifts, Dave did four night shifts, although they're S International employees.

THE COMMISSIONER: When you speak of functionality, did code 5-5 speak to code 1 in the sense that it could keep track of the overall position in relation to an employee, and in particular, the hours they'd work?---It wouldn't clash, no. So if, if I as an SNP employee covered 6.00am to 6.00pm, I would be more than capable of loading myself as an S International employee across those same hours.

And the system wouldn't pick it up?---No because it's two different individuals because that, that Microster ID number is your source of truth to allow to pick up on hard rules or soft rules.

I see. So it wouldn't pick up if a particular employee had worked excessive hours?---No.

10 Thank you.

MR ENGLISH: And this three-month parallel run you spoke of, were you involved in that?---Yes.

Who supervised you for the purposes of that three month parallel run?---I think at that point, our manager was Peter Barbagiannis. Linda didn't come into the frame until Peter left.

20 And when that functionality was introduced as you were doing the parallel run, were you given instructions as to why that functionality was being introduced?---To, to individualise contractors.

And what exactly does that mean, just to individualise contractors?---So instead of it just saying an agency, so S International, it has the functionality of saying Tory Swadling as an employee of S International.

30 And when do you first understand that SNP employees were entered into the Microster system as employees of contractors?---I think that's probably, for Sydney Uni, that was the only location that really crossed over between a direct contractor. All other locations were, you're either a direct employee or a contractor.

The question was when did you first understand SNP employees being loaded into Microster, as a contractor employee, so as a 5-5, when?---From the inception of Microster which is 2014/2015.

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

40 THE COMMISSIONER: Thank you. Mr Coleman.

MR COLEMAN: Can I go last, please, Commissioner.

THE COMMISSIONER: I'm sorry?

MR COLEMAN: Can I go last?

THE COMMISSIONER: Yes.

MR C. J. WATSON: Mr Swadling, my name's Watson. I appear for Linda Willard. You said in a couple of your answers to Counsel Assisting, I think something like this, in the rostering team the majority had authority, except for the new staff, to override the hard rules on Microster. Do you remember giving an answer like that?---Correct.

10 And you were also just recently talking about information being placed into the compliance database.---The CRM, yes.

And is that primarily to do with new staff, details of new staff being placed into Microster?---Anyone that would come on board, yes. So direct employees or contractors.

And overseas this right, that there were, for example, with Mr McCreadie as an account manager, he only had read only access to Microster, is that right?---I would assume Daryl would only have read only access.

20 And Linda Willard was the administrator of Microster, correct?---Correct.

And I'd suggest that she, yourself and Domenic Giardini were the only personnel with SNP who could override the hard rules on Microster, that's right, isn't it?---Linda, Dom, myself would have been the initial RAs, so the ability to roll over the top of a hard rule, but as additional rostering coordinators come on board and were trained with Microster, they would usually be provided the same form of access.

30 Are you sure about that?---I'm comfortable in saying yes.

So what you're saying, just to clarify it, it was more than the three people that I've mentioned, including you, that had the ability to override the hard rules on Microster?---Yes.

With regards to, and you were asked a string of questions by Counsel Assisting concerning discrepancies with time sheets, and I think your answer was that you deferred or referred the issues to Daryl McCreadie, is that right?---Correct. I would escalate them back onto site.

40 And is this the case, that you'd known Daryl McCreadie for a long time?---I have worked with Daryl since probably 2004, yes.

And you trusted him and looked up to him, is that right?---Trusted is a long stretch, but he was a work colleague.

It's just that, is this right, that you made the conscious decision with any issues that arose concerning discrepancies with the time sheets that you referred them to Mr McCreadie rather than to Linda Willard on that basis?

---I referred them back to the site, being the site manager. That was my escalation, yes.

THE COMMISSIONER: Can I ask you one thing about that. The evidence seems to suggest that the problem with the time sheets – that is, missing signatures, licence numbers and the like – was pretty constant across the period. You might have referred it to Mr McCreadie, but it didn't improve, did it?---From what I've been provided, no, it never improved.

10 Is there any reason why you didn't take it up with somebody else apart from McCreadie in a situation where you weren't getting a positive result?
---That's probably my own failure. I mean, I've been highlighted that. I put forward that question in November and then provided that it's still occurring in December with the time sheets. It wasn't escalated by myself to someone such as Linda outside of Sydney University, so that is correct.

Thank you.

Mr C.J. WATSON: I have nothing further, thank you, Commissioner.

20

THE COMMISSIONER: Mr Larkin, have you got any - - -

MR LARKIN: No, Commissioner.

THE COMMISSIONER: No.

MALE SPEAKER: No, Commissioner.

30 MR COLEMAN: On that last point – sorry, my name is Coleman and I appear for SNP Security, sir. On that last point that the Commissioner asked you, are you saying that now that you, in hindsight you think you should have escalated that issue – that is, the continued alteration of the time sheets – up the chain?---I'm at ICAC. Yes.

But when you did, in your words, escalated discrepancies in time sheets to Mr McCreadie, you had no reason to suspect, did you, that he was giving you false information in response to those inquiries?---No.

40 And if you suspected he was giving you false information, what would you have done?---If I believed that I was being provided incorrect information, definitely would have sent it towards Linda.

And the discrepancies that have been highlighted to you on the time sheets, for example, missing signatures or missing security licence numbers, did they give you any pause to think that there was fraudulent activity taking place at the university?---No.

And if you had had reason to suspect that there was any fraudulent activity taking place, what would you have done?---I would have escalated it to someone within SNP Security.

10 THE COMMISSIONER: But you used the expression ghosting and fraud in your email. Why did you do that?---I think that was probably a direct scare tactic, my demeanour towards staff back on-site, getting to the point where I was annoyed at the information that I was constantly being provided, and trying to highlight to them that it was inappropriate to be doing what they were doing on-site.

Okay.---In relation to signatures and security licences, these staff are going to work on a daily basis. Yeah, sure, they should probably fill every box out, but the relevant ones are a name and a start and a finish time.

Yes, sure. Yes, thank you.

20 MR COLEMAN: I think in fairness to you, the email that the Commissioner was referring to that you sent said it might appear to some to be ghosting or time sheet fraud - - -?---Yes.

- - - but I think you answered to Counsel Assisting that you didn't hold the view from what you'd seen at the time you sent the email, there was evidence of such practices taking place.---No.

30 Would that be fair, would you agree with me on that?---I would agree with you. It wasn't me making that assumption that that was occurring, it was me trying to highlight that outside would see it as something like that.

Now, and I think in answer to the Commissioner again a moment ago you said that these people would work every day and you became familiar with their names, I think you said to Counsel Assisting. Is that right?---Correct. Such as Bernadette not putting her surname so - - -

40 Right. And there's been some evidence, and is this right, that if there was a security licence missing if you put the person's name into Microster that the licence number would appear for that person, it would be stored in Microster?---If it was an expired licence or anything along those lines then yes, it would provide you a hard rule in relation to that.

But if it wasn't an expired licence, I think there was some evidence previously, and I might be wrong about this, but I recall it that the evidence was that if you put a person's name in, say Coleman, and that there was no security licence on the time sheet, that the security licence number for Coleman would be stored in the system. Is that right?---It - - -

And would come up?---The CRM needed to be updated, so if you didn't have a security licence number in our CRM then there would be further investigation on our compliance database why it was missing relevant information.

10 No. I'm talking about when you entered the name Coleman for example – and I don't have a security licence, I hasten to add – but if you entered the name Coleman from the time sheet into the system but there was no security licence number on the time sheet, that's what I'm talking about.---Yeah, yeah.

Would the system create an alert or would the system recognise Coleman if he'd already been entered and add it?---It would come back with a rule break to advise that there is missing information for Coleman.

Right. Well, but then what would you do if that rule break came back?

THE COMMISSIONER: Override it?

20 THE WITNESS: I would have to further investigate.

MR COLEMAN: You'd further investigate it. Thank you.

30 THE COMMISSIONER: How would that fix it?---Well, it's the same scenario, the time sheet that I'm being provided is days after the fact, the shift's already been worked, but I've still got to try and gauge why Coleman is doing a shift at Sydney University and our compliance database holds no security licence number for him, so that would go back to, okay, maybe it's just a human error when it's been loaded into the compliance database, speaking to Tamara at SNP Security, if it was a contractor, going back to, do you know what I mean, them to say, hey, it's expired, one number is incorrect, we don't have the relevant information, can you please provide it.

40 So are you saying that in respect of each of the entries where there was no licence number shown, you would get that information before you processed the matter further?---I would have to, because it would usually give me a hard rule that wouldn't allow me to load that individual. I could shortcut that and go S International as the agency, like we highlighted before, instead of individualising it to that person that works for S International. That would be my only way to get around the system to load the shift, but it would still be something that I would have to follow up on.

So you could load the shift and then get information later on.---Yes.

Yes, thank you.

MR COLEMAN: Sorry, I might be misunderstanding the position, but if you load the name and the system already had the number in there, would

you get the hard rule alert?---As an individual, yes, I'm going to get the hard rule.

And that's when you'd make the further - - -?---Further investigation.

10 Just pardon me. I don't mean to labour this, but as I understood it, sir, there is other evidence that if a name was entered in which the name in the system already had a security licence number in, that system would recognise that name and match it to the licence number. Is that not the position as you understand it?---Can you word that again for me?

Yes.---Sorry.

If you put in the name Coleman and the system had a current security licence number for the name Coleman, there wouldn't be a hard alert because the system would recognise and match the name Coleman to - - -? ---It would load it straight away.

20 Yes. Thank you.

THE COMMISSIONER: I think Ms Willard gave that evidence.

MR COLEMAN: Yes, I think that's right. So I hope that clarifies the position. Just pardon me. Yes, they're the matters I wanted to raise, thank you.

THE COMMISSIONER: Thank you.

30 MR ENGLISH: Just very quickly. Mr Swadling, you were asked some questions just by the Commissioner. It was in the context of the ghosting email, and you said you were concerned with the information that was coming back from on-site, and then you said, "Yeah, sure, they should probably fill every box out." Were you aware it's a legal requirement for a class 1 licensee to complete the sign-on register by entering their name, signature and licence number when you worked at SNP?---I would say yes. Is that a, the Sydney Uni time sheet, is that a document that is in line with that? The only reason I ask that question is SNP Security provide the majority of their sites with SNP occurrence book. So each page is by carbon, so you can rip out the top so it stays with the client and the middle
40 one can go back to SNP Security. That is obviously page one through to page 50, I mean, the red writing on the top to individualise each shift. Sydney Uni wasn't providing that, though.

So you were aware of that as a legal requirement, then, were you?---Correct.

And you received some training on that from SNP, did you?---Yes.

And your evidence is, I think, there may have been some other form of book that SNP used from time to time to fill in guards, to have guards fill in their names, enter their licence numbers and sign.---Yes.

Did you ever see that book for Sydney University being used?---Not through that time frame. Back in the early days when we first had Sydney University, yes, that would have been a book that was utilised.

- 10 In the early days of when?---I mean, when we initially had the contract for Sydney University, when the coverage numbers were a lot smaller. I mean, we were only looking after, say, core hours, not to the point of all the additional services coming in.

Thank you, Commissioner.

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

- 20 MR ENGLISH: No, there's not.

THE COMMISSIONER: Thanks for your assistance, Mr Swadling.
---Thank you, Commissioner.

You're excused and discharged from your summons.

THE WITNESS EXCUSED

[2.48pm]

- 30 MR ENGLISH: Next witness is Stephen Sullivan.

THE COMMISSIONER: Thank you. I'm not sure whether he's here.

MR ENGLISH: I think that might be him.

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

- 40 MR SULLIVAN: I'll take an oath, thank you, Commissioner.

THE COMMISSIONER: Take a seat. Mr Bryant, do you seek authorisation to appear?

MR BRYANT: I do, Commissioner.

10 THE COMMISSIONER: Thank you. That authorisation is granted. And does your client seek a section 38 declaration?

MR BRYANT: Yes.

20 THE COMMISSIONER: Why don't you come and sit up the front? Mr Sullivan, I want to explain to you your rights and obligations as a witness before this Commission, and I'm probably repeating what your legal representative has already said. 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. Your legal representative has sought an order or a declaration pursuant to section 38 of the Independent Commission Against Corruption Act.

The effect of the declaration, which I'll make in a moment, is that although you must still answer any question put to you or produce any item that I require you to produce, your answer or the item produced cannot be used against you in any civil proceedings or, subject to two exceptions, in any criminal or disciplinary proceedings. Now, I just want to check with you, are still employed with the university?---No, I'm not, sir.

30 Are you employed in any public office?---I work for the ICC Sydney, the International Convention Centre, Sydney. It's a PPP, a private/public partnership. The State Government owns the property but we operate within that as a part of, like, a tenancy within that space, so - - -

Who pays your salary?---ICC Sydney, not the state.

40 Thank you. Well, we don't have to worry about one exception. The exception to what I've just said is that your answers or any items produced by you can be used in criminal proceedings in a prosecution for an offence against the ICAC Act and, most importantly, the offence of giving false or misleading evidence. Now, to give false or misleading evidence to this Commission is a very serious offence and it's one where the penalty can be imprisonment for up to five years. Do you understand that?---I do.

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

and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

10 **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 AND THERE IS NO NEED FOR THE WITNESS TO
MAKE OBJECTION IN RESPECT OF ANY PARTICULAR
ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes, Mr English.

20 MR ENGLISH: Thank you, Commissioner. If you can just state your full name for the record, please.---Steven Patrick Sullivan.

And you're currently with ICC Sydney, are you, working for them?
---Correct.

You used to work for the University of Sydney?---I did.

What was your role?---I was divisional manager for facility management and services.

30 MR COLEMAN: I'm having trouble, Mr Sullivan.

THE WITNESS: Sorry, is that better?

MR COLEMAN: Thank you.

THE WITNESS: So I was divisional manager for facility management and services within - - -

40 MR ENGLISH: But, sorry, you go.---I was which, which is part of the Campus Infrastructure Services unit.

Thanks. And when did you start that role and when did you leave it?---I think I started in October of 2011 and I finished at the university in January of 2018.

And who did you report to in that role?---The director of Campus Infrastructure Services.

His name was, sir?---Originally it was Mr Colin Rockcliff and then after Colin Rockcliff left he was replaced by Mr Greg Robinson, who was the person I reported to. Sorry, and then towards the end of my tenure at the university, I was actually reporting through another line manager who was a deputy, acting deputy director of operations, I suppose, for the CIS and his name was Stewart Nevelson.

10 Thank you. If Exhibit 71, page 198 can be brought in the screen, please. Have you seen this document before, sir? If it perhaps be reduced in size a little bit, please.---I've seen that image in the screen in the last couple of days but I have no recollection of actually seeing that physical document.

So you're aware it's a report from KPMG to the University of Sydney in relation to SNP contract compliance review?---I'm aware now, yes.

20 When you say you have no recollection of seeing it, do you say that you can't recall seeing it or your recollection is that it was never brought to your attention?---My recollection is it never brought to my attention. I just, I'm assuming that the 198 on the bottom corner of that page is the size of the document?

No. Don't assume that, please.---Oh, sorry. Look, looking at the cover, I don't, I don't recall having seen it.

Well, let's just go page 199, please. Can you see in the distribution list you're identified?---Yes.

30 That doesn't jog your memory at all that you might have received this?---I may have received it but I, I don't have any recollection of actually physically receiving it.

Other than what you've seen, I take it you've been watching the live stream?---No.

How do you know that it had some prominence in this public inquiry? ---I was sitting in the back of the room (not transcribable) so I was actually sitting in here, saw it come up on the screen.

40 All right. Can we go to page 209, please. Can you see you're identified as under the heading, "Key Meetings," as a person who the auditors had a discussion with during the course of the internal audit?---This internal audit run by the ICAC?

Well, this is a KPMG internal audit. I'm looking at the same document that I just showed you the first two pages of.---I beg your pardon, yes, I do recall having a conversation with representatives from KPMG.

And what do you recall about those discussions?---It was an initial discussion with one of the auditors who was introduced to myself and Morgan Andrews. He inquired about what it was in relation to the security business that was, that they should be looking at and I generally said, “Just whatever you needed to go through, go through.” And that was pretty much the - - -

How long did that discussion go for, do you recall?---Oh, it was minutes. Less than half an hour I’d imagine.

10

So it was something more than a meet and greet?---Well, no, there was a bit, there was more details just about what they were going to do and how they wanted to take it and how could we help them.

And what assistance do you recall they sought from you?---Anything I could provide, it was just if, I think it was just access to the information they needed. I was supporting their inquiry and I had resources in the Campus Security team to allow that process to take, take place.

20

And how did you either support or facilitate the support of KPMG’s inquiry?---I think it was just allowing the staff to provide any information they needed to Morgan Andrews at the time was the Campus Security manager, so I just asked him to give them whatever assistance they might need to undertake their audit.

Did he report to you, Mr Andrews?---He did.

He was replaced at some stage by Mr Smith in an acting capacity?---Yes.

30

And that was, the evidence suggests I think, around the last week of July, 2016. It was around the same date of this report. Do you recall any interactions you might have had with Mr Smith in relation to this report? ---Look, I think there was a document that came round that had some findings in it and I’ve seen that on one of the other screens, the coloured table where it highlighted some issues that were raised.

Just hold on there. So you said a document with some findings. Can we go to page 203. Is that what you’re referring to?---Yes.

40

Now, this is part of the report itself. Is it the case that you would have seen the whole report or you’ve only got a recollection of seeing these, as you called them, findings?---I, I, I don’t have a recollection of seeing this as its form now, my recollection was there were some findings, I thought they were like in bullet points in a, in a paper that was handed to me. I don’t recall seeing it in this format, but that’s just my recollection. I thought they had like, half a dozen findings is my memory of, and somebody’s produced this is what, that’s been found and we need to sort of get to the bottom of it. It may have been this, I really can’t recall.

Who do you recall discussing what you just said there, these are the half dozen or so findings we need to get to the bottom of?---I would suggest either Ryan Sierra, I think his name is, or Kevin Duffy.

All right. Do you recall any discussions with Mr Smith in relation to these findings?---Only that we had to get to the bottom of what the, what the issues were and what we could do, put in place to try and resolve them.

10 THE COMMISSIONER: Did you instruct Mr Smith to seek a response from SNP in relation to the concerns that had been raised?---That would be a reasonable assumption I think, Commissioner.

All right. Thank you.

MR ENGLISH: Perhaps we can look at that. That's page 286. This is a letter addressed to Dennis Smith dated 23 August, 2016, signed over the next page by a Ms Darlene Winston. And you can see, if we go back to the first page, the subject heading is "Re: response to KPMG audit."---Yes.

20

Do you recall seeing this document at any time?---No.

Well, I think you said - - -?---I beg your pardon. At that time or since then? I've seen it on the screen.

Well, let's start with at that time.---No, I don't recall seeing that document.

I think you gave an answer to the Commissioner that I think it would be a fair assumption that you instructed Mr Smith to obtain a response from SNP.---Yes.

30

This is titled "Response to KPMG audit."---Yes.

Does that not suggest, given your assumption that you might have tasked him with obtaining this letter, that you would have seen it at around that time? That's 23 August, 2016.---No, I think it's a fair assumption but I don't recall having seen it.

40 Just take a moment to read it, at least the first page of it.---Yes, I've read that.

Having now read at least the first page of that, does that refresh your memory at all as to whether you saw it at or around the date that the letter bears?---It doesn't.

You knew SNP Security as at 23 August, 2016 was providing security services to the university?---Yes, I did.

Had you heard of S International Group at that time?---SIG I think I heard it. I didn't know it was, what did you call it, sorry?

S International Group.---S International. No, I thought, just heard it was SIG. I heard that as a subcontractor.

10 Were you aware that – this is all at that time – that some SNP employees were choosing to work for SIG on the university campus?---I knew that there were two companies. SNP was the, was the contractor, our main contractor, and they were supplementing resources when required with another subcontractor, SIG. I wasn't across exactly how that arrangement worked or when it, when it, when it, it was, it was nothing that I ever looked into. I just wanted to make sure that we were getting security coverage on the campus. So how that arrangement worked, I didn't look into.

So I think the answer's no, then. You weren't aware that SNP employees may choose to work for SIG on university campus.---Had no idea, no.

20 Did you know that the audit raised a concern about fatigue, in that if you look at the final paragraph before the subheading, an SIG officer was identified as having worked 15 days without a full day's break. Do you know that at around that time?---I was made aware of it, yes.

As at around 23 August, 2016?---I'm sorry, can you - - -

30 So as at the date of this letter, 23 August, 2016, were you aware of what's contained in that paragraph that I just drew your attention to? That is that during the audit a single staff member from SIG was identified as having worked 15 days without a full day's break?---I'm aware that that, that's what's one of the highlights there, but I can't remember that was made at that time, but I certainly was aware that there was some findings in there and fatigue was one of the issues.

What, if anything, do you recall was done with this response from SNP Security as to its internal distribution within Sydney University?---I don't know.

40 Do you have a memory of passing it up the chain to – you reported to Mr Robinson?---I did.

Do you recall passing it up to Mr Robinson?---No, I don't.

What about the KMPG report itself? Do you have any recollection of passing that up to Mr Robinson?---No, I don't.

Can we have Exhibit 128 brought on the screen, please.

THE COMMISSIONER: You were here yesterday when Mr Robinson gave his evidence?---I was here, yes, Commissioner.

Thank you.---Not for all of it, I missed the first part of it, I think. I was here for the best part of the day.

MR ENGLISH: If we look at the email towards the bottom of the page, the first one says, "Hi Daryl, attached is the SNP response to Sydney Uni KPMG audit. Can you forward on to Dennis, please?" And then you can see that there's an email from Daryl McCreadie on 24 August, 2016 at 2.39pm, "Dear Dennis, please find the response from SNP Security to USYD regarding the KPMG audit attached. Kind regards, Daryl." Do you know who Daryl McCreadie is?---I do.

Who is he, to your understanding?---He was the site manager for SNP Security at University of Sydney.

And then you can see on 25 August, 2016, there's an email from Dennis Smith to you, "I have read the SNP formal responses. On balance they have answered the concerns raised by KPMG." Do you see that?---Yes, I do.

It's unclear whether Mr Smith's email to you contained an attachment. Do you recall whether or not he forwarded the letter we've just been looking at to you at or around that time?---Based on my response, it looks like I said "please find attached" so I'm assuming that I might have had an attachment to that and forwarded it straight on.

MR COLEMAN: Sorry, Mr English, what exhibit number is this? I'm so sorry.

MR ENGLISH: No, that's all right, 128.

MR COLEMAN: Thank you.

MR ENGLISH: Now, you've said – I withdraw that. Mr Smith said, "On balance they have answered the concerns raised by KPMG." Do you recall having any discussion with him about that view that he held?---I don't have a recollection of a conversation. I, my guess is that he's undertaken a review and forwarded it to me and satisfied me that, that they're going to be dealing with the concerns that were raised and that we, we'd be monitoring it.

Well, would that satisfy you? I mean, is that your everyday practice that you'd receive one sentence from a co-worker saying that on balance concerns raised in a report by a major accounting firm have been addressed, and you would just take that on face value without looking into the response yourself?---As I say, I, I'm not saying I didn't see the response, I'm just saying I can't recall the response but on, on my, I relied on certainly Mr

Smith's capabilities in that space and I would have assigned him that role and he told me that that was undertaken and, and on trust I think I would have accepted that, rightly or wrongly, I, I, that was my approach on that particular occasion.

10 "Later in the year, as part of monthly KPI meeting, I will double check on the main items raised during the audit and ensure compliance is continuing." Do you see that?---And I think I said, oh, I think, CSI operations manager and I are satisfied with the responses and actions provided by SNP and will continue to monitor in monthly contractor meetings, so whether that's referring me to me, I don't particularly attend the contractor meetings, so - - -

No, just do you see where he says - - -?---Oh, I beg your pardon. Down, Dennis Smith's response.

20 Yes. The sentence starting, "Later in the year, as part of monthly KPI meeting, I will double check on the main items raised during the audit and ensure compliance is continuing."---Yes.

Did you ever have a discussion with Mr Smith about whether he was double checking on the main items raised during the audit and ensuring if compliance was continuing?---I can't recall following up. I, I might have.

And did you do anything to satisfy yourself that compliance was even shown?---After this report had been submitted?

30 Well after you'd got the response, did you do anything to satisfy yourself whether the concerns raised by KPMG had been complied with by SNP? ---I, I'd only be relying on the team to report it if they'd been, after those monthly meetings so I personally didn't do anything other than that.

But you're a person who, according to the report, sat down with people to discuss it before it commenced, and then you were on the distribution list for the report itself.---Correct.

So is it your interest in seeing it roll out at the university no higher than relying on Dennis Smith?---No, that's not the case.

40 Well, what did you do? What did you do other than rely on Dennis Smith? ---Not enough, as it seems.

Is the answer nothing?---Well, that could be, you could probably draw that conclusion, other than rely on the resources that I had around me. So - - -

Well, why not?---I think we were very stretched at that time with the whole, in the whole business. There was a lot of juggling. I was relying on resources within the team to manage those things, and I should have taken

more of a view of what was needed to be done to ensure that these things were getting covered off. But the reality is I didn't.

Well, what you did do, we can see on Friday, 26 August, 2016, at 9.18, you send an email to Ryan Sierra, copying in Mr Smith, saying, "Ryan, please find attached response from SNP to audit findings. CSU operations manager and I are satisfied with the responses and actions provided by SNP and will continue to monitor during monthly contractor meetings." See that?---Yes, I do.

10

There you're putting forward a positive proposition that you're satisfied with the response and actions provided by SNP. Was that true?---What I put there is true. That's what I said.

Well, why on your evidence you didn't really review any of these documents?---Well, I've spoken to, well, you're right. I'd spoke to Mr Smith and I'd relied on his review of the documentation in the report and sent it through.

20

And so you say CSU operations management. Were you the head of that?---No.

Who was the head of that?---Well, it was Morgan Andrews, but at that time he just left, so it was, I don't know if Morgan had any transparency over this before he left. I don't know. But I'd say Dennis Smith was probably (not transcribable) in the role. Dennis was assuming a number of positions at that time.

30

So is CSU operations management, does that mean Dennis Smith?---Yes.

"So Dennis Smith and I are satisfied with responses and actions provided by SNP and will continue to monitor monthly contractor meetings." What did you and Dennis do to continue to monitor monthly contractor meetings?---Well, I certainly didn't attend the contractor meetings.

Did he report back to you ever to say, "I've been checking on the main items raised during the audit and I can tell you that compliance is continuing"? Did he ever say anything along those lines to you?---I don't recall that, no.

40

I mean, it seems to me that this report and the response from SNP was buried at the university. Do you accept that?---Well, I don't know where it was. We reported up to Ryan so I don't know that it was buried.

Well, shouldn't it have been reported to Mr Robinson, who you reported to?---Well, I, I guess it should have been but I don't know whether it was my responsibility to be doing that if I didn't engage KPMG. It went through to Ryan, who asked for the information. I forwarded it back.

Well, where does it say in your email that Ryan asked for the information?
---Oh, my recollection is that Ryan and Kevin Duffy arranged for this whole thing to happen, so I think it was just reporting back to them.

Well, you've said, "Forwarded FYI and record." See that?---Yes, I do.

10 What did you mean by that?---Well, for their record and forwarded for their information, so what they do with it after that, if they've engaged KPMG I would have assumed that they would want to manage it how they saw fit.

I just want to change subjects now. Did Mr Smith ever raise with you any potential risks in respect of a lack of supervision of the performance of ad hoc guarding services at the university?---No.

Never, ever?---I'm sorry, when you say the ad hoc guarding services - - -

20 Did Mr Smith ever raise any potential risks with you in respect of a lack of supervision of the performance of ad hoc guarding services at the university?---No. No, I don't think there was any distinction with regard to ad hoc services and just guard services, as far as I'm aware.

30 Did Mr Smith ever raise with you the fact that there was no visibility of security guards at the university after he had left the campus, usually around 3 o'clock each week day?---No, I was aware that there was no university representative supervising there, but I don't know that there was, raised as a concern. It's been a practice that's been going on for some time. So he was available on his mobile phone if there was any issues that were raised or came about, he was, he was able to be contacted, and I think he did it on a regular basis.

And did Mr Smith ever raise with you a need to get more internal University of Sydney security team members who could perform the role of supervision of contractors?---There was a concern about the whole structure of that Campus Security Unit at that time. The security manager had recently left after suffering some personal issues that he had to deal with and his focus certainly wasn't on work, the number of his team that were - - -

40 Is that Mr Andrews?---Yes, it is, yes. Yes, Mr Andrews left the university around the time of that report, from my recollection. Another member of the team had a significant period of illness over a long, long time and Duane Ledford was off work a hell of a lot, so we were down resources there, there was issues with regards to another member of the staff, I'm not sure if it was around that same time, who'd had a number of operation surgeries and a fall while he was on holidays and had head injuries, so they were depleted significantly in resources and so everybody in there was stretched considerably.

All right. So thanks for that information. Just if I can bring you back to the specific question. Did Mr Smith ever say to you, we need to recruit more security, internal university security team members to supervise the contractors?---I know that was raised, I don't know if it was from Dennis directly, but it would probably be logical that Dennis would raise it because that was his area where there were some issues. I think some other people might have suggested that to be a good proposition as well. At the time that, when Morgan was leaving or was in the process of leaving the university we were looking at how that would be structured moving forward, the whole
10 security team, so I did have discussions with the director about what might be involved there and his advice was to, let's wait till we get somebody on board and see what they want to do with it, is my recollection, but I think there was a suggestion that perhaps putting internal security people as supervisors, employees of the university, was one of those things that would be considered in that structure, depending on who was appointed to the role.

THE COMMISSIONER: They'd be team leaders, would they?---Team leaders or supervisor, whatever it might be, Commissioner.

20 MR ENGLISH: And was it the case that there was ever a budgetary constraint that was put forward as a reason why that couldn't, that proposition couldn't be fulfilled immediately?---No. I think, look, I think overall there was, the university was going through some significant strategic reviews in relation to going from 16 faculties down to five and a number of schools. They, that whole academic piece of the business within the university was going to be, have to restructure against that and therefore operationally all the professional services of the university would have to see how that fell out and respond accordingly about how they would structure and strategically deal with that. So I think there was an overall
30 picture or strategic view of what that would look like and then we would have to look at each of the businesses across the organisation as to how would we best respond to that. So I guess until that was clearer there was I guess a direction or a holding pattern on what might happen. Whether budget became an issue of that I can't say, I wasn't aware of that, but I think all of that would have been come out in that mix.

So to your understanding, it was a strategic issue which was holding things up, not a budgetary constraint. Is that fair?---Oh, budgetary, budget's always a constraint, but I think it would have been - - -

40 You just said you weren't aware of any budgetary constraints.---Oh, as a, as a business proposition I think budget is always a constraint, there's always limitations, there's not a bottomless pit, so I would suggest that that would have formed part of that strategic outlook, so budget would have certainly had some bearing on what that model might look like at the end of the day.

Did Mr Smith ever raise with you the potential for fraud with respect to the performance of ad hoc guarding services at the university?---Not that I'm aware of.

Okay. Thank you, Commissioner.

THE COMMISSIONER: Thank you.

10 MR COLEMAN: Yes. Thank you. Mr Sullivan, my name is Coleman and I appear for SNP Security.---How do you do.

I think you were involved in the Tender Evaluation Committee for the 2015 tender for security services at the university. Is that right?---Not on the committee, I wasn't, my name appeared on there but I actually never sat on that committee.

20 Well, what was your role with respect to the tender?---Oh, originally I was involved but then I can't recall why I wasn't sitting on part of that committee, there was a decision made where I'd sit outside of it and review but I, my recollection of being part of that is that, but I never sat on the committee itself.

I think you gave some evidence before that you were aware that SIG provided some subcontracting services for guarding services at the university, is that right?---I'm aware that they were one of the contractors, yes.

30 How long did you have that knowledge for – I think you said you went to the university in 2011?---Yes.

When did you first learn that SIG were providing some subcontracting services at the university?---The exact time I couldn't tell you, Mr Coleman. At some point I just assumed that they were all wearing the same campus uniforms that they were all part of SNP and it just would have been in conversation that they subcontract, or if there was significant events they'd pool resources in. I think that's probably when I became more aware of it, I, you can appreciate - - -

40 I'm sorry.---Go on.

Do you know how you became aware of it? Did someone tell you?
---Somebody would have told me and I think the likelihood is that it would have been somebody from campus view, might have been Morgan Andrews at the time but when we had protest activity around the campus or other security operations that required extra resourcing I appreciated that SNP as a head contractor wouldn't have people sitting on the bench ready to pounce so they'd pull those resources in from somewhere and obviously

subcontractors were where those resources came from, and that's when I think SIG as a supplier was made known to me.

Did you ever discuss with Mr Robinson that fact that SIG was providing subcontracting services at the university?---I may have. I don't recall directly. I think when I ever spoke to Mr Robinson, it was always referring to SNP or Campus Security. I don't know that I ever got into specifics about contractors or subcontractors to that.

10 Can we, I just want to ask you a few questions about the KPMG report, if that can be brought back up on the screen please Exhibit 71. Thank you. Can we go to the next page please. So can I just get an understanding of the change of command, as it were, Mr Sullivan, in respect of the distribution list here.---Yes.

Did Mr Andrews report to you?---He did.

Did you report to Mr Sierra?---No.

20 You reported to Mr Robinson did you?---I did.

Did you report to Mr Duffy?---Not at that time. I think he was a peer or so to speak, I think at some point in time he obtained a deputy director role so he would have been a senior - - -

Okay. But at the time of this - - -?---He was a peer.

Mr Sierra said you didn't report to him. Was he in a different unit or was he at the same level?---I'm not sure how he sat. I think he would have, I think
30 he would have been a level below, he would have reported to Kevin Duffy.

I think you said in answer to one of Counsel Assisting's question that Mr Duffy and Mr Sierra requested KPMG to conduct the audit, is that right?
---Certainly Mr Duffy did. I don't know if Mr Sierra was in that. I stand to be corrected. I'm positive Mr Duffy contacted me to say that that was being arranged and Ryan Sierra was involved in it some way, so I don't know that he directly told me about it but certainly Kevin Duffy did.

40 Did Mr Duffy told you why he commissioned the report?---I think it was a process that we go through. We had cleaning contractors that went through a process with regards to their practices, they were contract cleaners we had on-site. That was a similar exercise that KPMG were engaged to review them, and so I think it was just a series of audits that were being undertaken at the university.

But it's not an insignificant matter I think you'd agree - - -?---Absolutely not.

So it's a serious matter?---Yes.

And you would want your staff, certainly, to provide all available information to the auditors?---Yes, that's right.

And being a serious matter, would you have reported it up the line to Mr Robinson that this was taking place?---My assumption that, was he already knew because his direct report was Kevin Duffy, who sat next to him.

10 But did you yourself ever discuss the fact that KPMG were coming on-site to do an audit with Mr Robinson?---No.

Did you ask Mr Duffy whether he had?---No.

You just assumed, did you, that Mr Duffy would have raised it with Mr Robinson, is that what you're saying?---Yes. I was, I was informed that the audit was taking place and it was a, it was a foregone conclusion that's what's going to happen. I - - -

20 I think you said in answer to Counsel Assisting that you instructed Mr Smith to give them whatever assistance they needed, KPMG, in terms of conducting the audit, or words to that effect. Do you remember that?---I think I said Morgan Andrews, not Mr Smith.

I beg your pardon. Morgan Andrews.---Yes.

And did you then follow up with Mr Andrews as to what he'd done in terms of providing any necessary assistance to KPMG?---I think whatever they asked for we were trying to oblige them as best we could, and if there was
30 any concerns about that, he'd escalate it to me.

Well, did you have any concerns escalated to you?---Look, I was aware of an issue with regards to Daryl McCreadie as a site manager there, who had concerns about whether there's a legitimacy with regards to their authority to investigate SNP's practices on-site. He seemed to be, from the emails that I had transparency over, that he was quite defensive about that, and the instruction that was given was essentially do what you're told because this is a serious investigation or a serious audit, so can you please make, accommodate where possible.

40

Well, do what you're told, Mr McCreadie wasn't one of the university's employees, was he?---No, he wasn't, but there, there's an audit of our operations and they form part of it, so I think it was only to be clear and transparent that they accommodated the request of KPMG to give us a full and transparent view of what was going on with what they were looking at.

Well, when you received these emails that you thought evidenced some obstructionist behaviour from Mr McCreadie, did you take steps to raise that with any one of his superiors at SNP?---Of any of his?

Yes.---No. I think I raised it within my team as soon as I was aware of it and asked them to make sure that he's compliant with regards to the - - -

Well, who did you raise it with in your team?---Morgan Andrews.

10 And what, to your knowledge, did Mr Andrews do?---I think would have approached Daryl to inform him that he needs to be compliant with the, the process of the audit.

When you became aware of these concerns that Mr McCreadie was not, or was resisting providing cooperation, did you escalate that issue to Mr Robinson?---No, I didn't. As far as I was aware, that was resolved and the audit was moving forward. I hadn't heard any more after that. I thought that roadblock had been removed and the audit was able to continue.

20 Counsel Assisting asked you some questions about the findings of the audit.---Yes.

You'd agree with me, wouldn't you, that those findings could be regarded as serious matters that the university wished to follow up on?---Yes, I agree.

And would you have regarded those as serious matters affecting the unit for which you worked at the university?---Absolutely.

30 And did you take any steps to refer those findings to your superior, Mr Robinson?---No, I didn't.

Were you in the Commission yesterday when you heard his evidence about this matter?---I did.

He gave evidence, I think, that it was just common sense and certainly part of your duties and responsibilities to refer the findings to him. Do you recall that evidence?

40 MR LARKIN: I object to that question. If my recollection is correct, it was something that you suggested, Commissioner, and - - -

THE COMMISSIONER: I did suggest it and I think he agreed with me, didn't he?

MR LARKIN: Did he?

MR COLEMAN: He did, I think. Anyway, Mr Robinson agreed that it was just common sense, and I think I suggested to him and he agreed that it was

part of, or he may have volunteered it that it was part of your duties and responsibilities to refer the findings to him. Can you give the Commissioner any explanation as to why you didn't do that?---I guess the control, the leadership of this whole audit inquiry rested with Kevin Duffy, was my understanding, and my impression or what I thought would have been, he would deal directly with Mr Robinson about the audit itself. I don't know that two people at the same level reporting (not transcribable) about the same job would be, you know, efficiency but I, I take the point that it's probably an oversight on my part, where I should have escalated it.

10

But you don't report, you told us you didn't report to Mr Duffy.---No, I don't report to Mr Duffy.

Well, it's a serious matter affecting your unit. Didn't you check with Mr Robinson as to whether he was aware of these serious findings?---No, I didn't check with him.

Didn't you check with him as to whether not Mr Duffy had passed on those findings?---No, I didn't.

20

Didn't you check with Mr Duffy as to whether he passed those findings on to Mr Robinson?---Not that I recall, no.

Can you explain to the Commissioner why?---I, I can't. It's just an oversight. I, I think it's something I should have done and I didn't.

30

THE COMMISSIONER: Why did you refer the report to Mr Sierra?---I think his name was in the, I think he actually provided me a hard copy of the paper, from recollection, to say can we, can we look at getting these things fixed. (not transcribable) bullet points is what I recall and that, can we get that looked into, and I think that's essentially what it was. So whether he was providing that information on behalf of Mr Duffy to me, saying this is the findings of the report, that's the best I can remember, Commissioner. I, I, I, yeah, I think, it's just the way I recall it anyway.

MR COLEMAN: And Counsel Assisting asked you some questions about an email chain where you passed on SNP's response, I think to Mr Sierra, if I can recall correctly.---Yes.

40

Again, why did you pass it on to him and not on to Mr Robinson?---Well, again, I think it's because Mr Sierra provided me with the finding and I think it was just reporting back to the people who were asking the information.

And did you ever take any steps to see whether or not the matters that had been raised in the response to the audit had been followed through and corrected insofar as was necessary?---I don't recall doing so, no.

So you're aware of these serious finding and you had SNP's response and your evidence is you took no steps to ensure, in your position, to ensure that the matters raised in the reports as shortcomings or possible shortcomings had been corrected, is that what you say?

MR BENDER: I object. It's been covered, Commissioner.

THE COMMISSIONER: I'll allow it.

10

THE WITNESS: Sir, can you ask that question again, please?

MR COLEMAN: Yes. You were aware of the serious findings in the report and you were aware of SNP's response saying, for example, the person doing a number of shifts which were in a consecutive time which were too many, amongst others, and you say to the Commissioner, do you, that you took no steps to enquire as to whether the matters the subject of the findings in the report insofar as they needed to be addresses were addressed? Is that what you say?---Well, to my recollection, I don't remember anything specific that I would have done to satisfy myself that those corrective actions were being put in place or being monitored.

20

To your knowledge, did anyone from the university take such steps?---Not directly, no. I, I can make an assumption but - - -

Don't make an assumption, just tell us what you know.---I don't know.

Did you direct Mr Smith to take steps to implement any corrective action? ---I would have expected that he would have.

30

Did you or didn't you?---I don't, I don't recall.

Yes, thank you.

THE COMMISSIONER: Thanks, Mr Coleman.

MR BENDER: Mr Sullivan, my name's Bender, I appear for the university. As at August, 2016 how long had you been working with Dennis Smith at the university?---August, oh, well, from the say I started really. He was, he was employed at the university before I arrived there.

40

So that was, what, about five years?---Four or five years. When I, sorry, when I, how long I'd been there or - - -

I thought you said you started in 2011 in October?---in October, 2011, so - - -
-

Yes. So it's about five years by August, 2016?---Four years.

And in that period, did you have frequent contact with him in a professional capacity?---Yes.

Did you form the impression that he was a reliable or unreliable person within the security unit?---Very reliable.

10 And what was your basis for forming that impression?---Whatever was, he, well, he brought a lot of experience and skill to the role. He manage our operations with regards to protests and organisation plans for those events impeccably. His, his understanding of security arrangements and dealing with those situations, I thought were impressive. Yeah, I thought he was, a, a very reliable person for me to be able to depend on. I thought he was very good.

And when you received his report of the response to the KPMG audit, that he was satisfied with it, did you regard that as something that could be relied upon and trusted?---Yes, I did.

20 Thank you. Nothing further.

THE COMMISSIONER: Mr Smith had a policing background. What was your background?---I was also as a carpenter before I joined the police officer, and I spent 13 years in the police officer and left in 1997.

Thank you. Nothing further?

MR ENGLISH: Nothing from me, Commissioner.

30 THE COMMISSIONER: Thanks for your assistance, and you're free to go and you're discharged from your summons.---Thank you very much, Commissioner.

THE WITNESS EXCUSED

[3.35pm]

MR ENGLISH: I can call Srinath Vitanage, and while he's coming up can I tender his statement, please, that is dated 6 February, 2019.

40

THE COMMISSIONER: Thank you. That statement will be admitted into the evidence and marked Exhibit 136.

#EXH-136 – STATEMENT OF SRINATH VITANAGE DATED 6 FEBRUARY 2019

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

MR VITANAGE: Affirmation.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Mr Vitanage, you're not represented, I gather.
---Not, just with the university.

MR BENDER: I appear for the university. Mr Vitanage is not represented
by me. I understood that he understood that.

10 THE WITNESS: Yeah. No, I'm not, yeah, no, saying I'm, yeah, only - - -

THE COMMISSIONER: Part of the team.

THE WITNESS: Yeah, yeah.

THE COMMISSIONER: Just let me explain a little to you about your
rights and obligations. You probably heard in the back of the hearing room
me say it to others. As a witness you must answer all questions truthfully
and you must produce any item that I require you to produce during the
20 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 you
produce can't be used against you in any civil proceedings or, subject to two
exceptions, in any criminal or disciplinary proceedings. I take it you're still
an employee of the university?---Yes.

The first exception is that the protection granted to you by objecting does
not prevent your evidence from being used against you in a prosecution for
an offence under the ICAC Act and, most importantly, an offence of giving
30 false or misleading evidence. You've probably heard me say to other
witnesses that to commence that offence is very, very serious and the
penalty can be imprisonment for up to five years. Do you understand that?
---Yes.

The second exception only applies to New South Wales public officials, and
because of your employment with the University of Sydney, you are such an
individual. The evidence given by a New South Wales public official may
be used in disciplinary proceedings against the public official if the
Commission makes a finding that the public official has engaged in or
40 attempted to engage in corrupt conduct.

Rather than you objecting each time a question's asked of you and then
having to answer it, I can make a declaration that all of the answers you give
and anything you produce during the course of your evidence will be
regarded as having been given on objection. Would you like me to make
that declaration?---No, I'm okay to proceed - - -

I beg your pardon.---Without that, is that the section 38?

Yes.---I don't need that protection.

As you're unrepresented and it's a right, nobody's going to draw an inference from the fact that the declaration's made. I can't force you to accept my kind offer but - - -?---I guess I've, I've, just I'm not represented but I've had conversations with the university team and I'm okay to proceed.

10 All right. Thank you.

MR ENGLISH: I'm just going to ask you some questions about your statement, Mr Vitnage, Exhibit 136. While that's coming on the screen, thanks for your patience today. I know there's been some shuffling in the witness list. Can you just start by telling the Commission, what's your role at Sydney University?---Currently I'm a category manager.

Was that a - - -?---Category manager.

20 What's a category manager?---So, so we basically look after certain portfolios or categories. So up to this, up to pretty much a year ago I was looking after the construction and facilities management portfolio.

What were you doing in around December 2014?---I was working within Campus Infrastructure Services, in the construction and facilities management area.

Were you a category manager back then too?---No, I was a procurement specialist.

30 Thanks. And what qualifications do you hold?---I've got a degree, Bachelor of Commerce in Accounting and Finance, and I'm a chartered accountant.

How long have you been working at Sydney University?---Just under 10 years.

Did you work for a firm or something before that?---I worked at Deloitte and Colonial and Qantas.

40 I just want to ask you some questions about the procurement process that lead to the award of the 2015 security services contract between SNP Security and the university. Are you familiar with that?---Yep.

If we can just get Exhibit 136 on the screen, please. Now, on page 5 you start talking about the procurement strategy, do you see that?---Yes.

If you go over the page, I think in the context of the procurement strategy you say, "Managing risks is a pretty standard approach that those factors we look at, at a high level." Do you see that?---Yes.

10 What type of risks did you have to manage in relation to the procurement process for the security services contract in 2015?---So this is in relation to the procurement strategies. So the procurement strategy has a section on risks. So this is well before we go to market or tender anything or know any sort of information like that. So we basically look at the standard sort of risks that we look for, which is quite common to the majority of contracts that will come up. So we'll look at supplier risk, financial risk, political risk, there's a matrix in the actual procurement strategies. So we look through that and just assess whether it's high, medium, low. If there's anything significantly high for a certain project, in terms of this one at that point, we didn't identify anything significantly high so that's how we approached that strategy.

20 You mentioned supplier risk. What are some of the risks in that area?---So we're looking at going into liquidation, just generally bad performance and having to remove that contractor and bringing another contractor on. At that point in time I didn't, we weren't really, as a procurement function we weren't looking heavily into subcontractors, so that wouldn't have been something that we'd prioritise as a huge risk because we look at our contracts with the supplier that we engage with the supplier, and then I guess the subcontracts with other parties there. Those are the types of risks we look it.

30 So you said you didn't look into subcontractors. Was that something that was not visible in the procurement strategy document?---It doesn't highlight subcontractor risk as one of the risks in that section in the strategy.

You're aware that at least in so far as this particular contracts concerned that has turned out to be quite a risk that's presented itself to the university?
---Yes, since I was approached by ICAC an investigation began, yes.

40 And so what's happened that you're aware of in terms of the university's procurement strategy to incorporate, if anything's been incorporated at all, a section on subcontractor risk?---Because we've got quite a wide array of projects with the university. So since 2015 we've got an area within procurement which has appointed a governance and planning section. So they have done a review of the procurement strategy. That sits outside, because I'm – technically I was part of the sourcing and part of the category management team. I don't work directly with the quality governance and planning team but I understand that they've looked at the procurement strategy as a whole and gone through and reviewed what areas need to be added and removed and beefed up.

So they've looked at it and reviewed certain areas. To your knowledge have amendments been made to that document to incorporate a specific section or sections on subcontractors risks?---I'm not aware if it's gone down to the specifics of a subcontractor risk, but I guess from, it definitely is on the cards now since, since the investigation has begun, but to the point where the investigation's begun I'm not sure if there was a section there.

10 Who'd be able to answer that? The procurement manager at the university?
---There is the head of quality governance and planning. Do you need a name or - - -

There's a Mr Allan who's in procurement.---Yes.

Would he be someone who could answer whether the procurement strategy document's been amended to incorporate those subcontractor risks?---He should be able to answer it. If not, he can get, he's got an associate director for quality governance and planning that can definitely give some guidance as well.

20 All right. Thank you. Now then at 29 if we just go back to Exhibit 136 please.

30 THE COMMISSIONER: Can I just ask a question before we go on, though. You say that some assessment was made of the standard risks involved in this sort of contract, how's it assessed, what do you do to work out what the standard risks are?---I guess we just look at a type of contract that we're looking to put in place and then we as procurement would do some I guess desktop study and rely on our knowledge and then talk to the actual project team and, and when we prepare that strategy there's certain sections that we, we take charge of, we take carriage of, so for example like the actual sourcing strategy, that is driven by us, and how best to get value for money from the market. I mean in the section such as a risk, if we're not sure we'll converse with the business or we'll rely on other people who have those knowledge in those areas.

40 And do you recall, was there a conscious decision made that this particular transaction didn't involve subcontractor risk?---At that time, like five years ago, wasn't aware of the risk of a subcontractor from that, from that perspective.

So it was something that was not assessed?---It was assessed in, there was a requirement in the tender, but the general template in the procurement strategy was just pre-tender, didn't go down to the level of detail as a subcontractor, but it might have a high level topic like an area that might cover it, but not in the granularity of the subcontractor risk.

Thank you.

MR ENGLISH: And I might be able to short-circuit a few questions this way.---Yep.

Because it wasn't considered, I think you've just answered for the Commissioner, that is the risk of attaching to subcontractors, I take it there was no consideration of whether a subcontractor assurance framework was required in the contract itself?---You mean when we gave the contract to SNP or just the general process?

10 Well, you said in the procurement strategy you're not assessing it as a risk. ---Yeah.

So it would seem therefore, and tell me if I'm wrong, I'm not even suggesting this to you, that if you follow that through then you might not be thinking when it comes to the contract that we need to have a framework round that risk, because you haven't even looked at it in the first place.

---So the strategy is quite high level and just essentially that's just to put down the thought process of what our strategy is in that, for this project for example in security services, but I know, but I don't know the details of the contract because I don't look after each of the schedules there, but I know the contract has subcontract requirements in there and a framework to cover who are the subcontractors et cetera.

Well, you received, Sydney University received a tender from SNP that identified SIG as a subcontractor.---Yeah, yeah.

And then in the contract itself there's a clause that says the university – let me read it out to you, I might get an objection otherwise.

30 MR COLEMAN: Don't look at me.

MR ENGLISH: It's Exhibit 7, and we can find the clause on page 20. So you can see that clause 4.5, Subcontracting.---Yep.

Did you have any involvement in the preparation of this contract?

---No, we, this is a, the template here is a, is a template OGC have, the, our legal counsel, Office of the General Counsel have prepared. I didn't put that clause together, nor the contract together.

40 Sure. To your understanding is this a fairly standard subcontracting clause that goes into contracts between the university and its suppliers?---Yeah, because it's a standard agreement, this would be standard across the projects as well and when they sign the contracts at the back end.

Now, you can see that subclause A provides that, "The supplier may not subcontract any obligations under this agreement without the prior written consent of the university."---Ah hmm.

B looks at liability in terms of, “Where the supplier subcontracts the carrying out of services or any part of the service, the supplier remains liable for the carrying out and completion of those services.” And then lastly, C, “The supplier will ensure that all subcontractors comply with all the terms of this agreement.”---Yes.

Is that the extent of the subcontractor compliance assurance framework that you’re aware of in relation to this particular contract?---Is this the actual contract that SNP signed or is this just a template?

10

No. If we go to page 14, you can see that’s the request for contract execution and then we go over to page 16. You’ll see that this is the first page, it’s attentioned to you. And then if we go to page 28, which is page 13 of 14, it’s page 1 of 14 with your details at the front and then over the page, you can see that it’s signed.---Yep.

So this is the signed version.---Okay, yep.

20

So just coming back to that question. Is clause 4.5 the extent of your understanding of the contractor assurance framework contained in this contract for security services?---In this particular, in the master services, I think the master services agreement, that’s the subcontractor covering that contract, but then there’s other contracts, for example, the, like, FM, facilities maintenance type contracts. The got more of a subcontractor framework around it, or and, and requirements but yeah, for this one, this, this is - - -

30

So you said FM for facilities management. Why was there a greater focus on enhancing, if it was enhanced, the subcontractor assurance framework in that area, but in here for security services there wasn’t such a focus? Do you know the reason why? Does it come back to risks, a failure to appreciate the risk at the strategies side of the procurement process?---I think it actually comes back to the guidance we were given from legal about what contract to use for that, for the security services tender. So that’s why we use the master services agreement.

40

I see. So if we go back to Exhibit 136, please. We can see at paragraph 29 that you say, “I worked with Kevin Duffy and Steve Sullivan mostly on identifying the needs of the business project budget, things like that. I think even Morgan Andrews as well.” And you go on to say, “I think we coordinated as a team to come up with some of those needs and requirements and the scope of what we were trying to get at.” What were the needs and requirements of the business as they were explained to you by Messrs Duffy, Sullivan and Andrews?---So it just goes, from our perspective, there’s a contract expiring, so we need to put a new contract in place for security services. So that’s what I worked with Kevin and Steven, Morgan and, and other members of the team on, and Zoe, Zoe Davis led that

and we worked together to come up with the, the technical scope to release that tender documentation to the market.

10 Now, we've seen the spreadsheet that accompanied the tender evaluation plan, whereby committee members rate their scores, and I think there was a section for subcontracting. So it was considered, at some point, that this was a relevant factor, subcontracting in the procurement process. Can I ask why then it appears that that understanding perhaps didn't translate into the master services agreement, do you know?---I, I think from, so I'm not an expert in the security services and, and the technical requirements of security services. So we were going on the information that we were provided by the team. So my role is more to make sure that we gather that information, put it in the right format, look at commercially if it makes sense, then we release that to the market. So subcontracting was highlighted as a, as a criteria in that it was assessable criteria in the tender and the evaluation plan but I wasn't told of the, the details and the issues around what could happen if something went wrong with subcontracting, the risks around it.

20 Well, it was the case, wasn't it, that the Tender Evaluation Committee chose SNP, but there was an issue with some price considerations for SNP and it took a while for SNP to, to be approved up the chain for its proposal to get formal approval, is that right?---Yes.

Now, during that period – you weren't on the Tender Evaluation Committee, were you?---I was.

You were, were you?---Yeah, I was one of the members on the Tender Evaluation - - -

30 I'm sorry. I'm sorry. When you performed that role as a member of the Tender Evaluation Committee, including over to that period when you were waiting for formal approval for SNP, was the issue of subcontracting discussed amongst your other committee members?---To the best of my recollection, subcontracting issue didn't come up at that time. What we did discuss is about how we can come under budget by rejigging some of the pricing that was provided, for example, in the control room and trying to get a group discount by bundling all the packages. So we were looking at it in a holistic sense. There was no, as a member of the committee I wasn't
40 informed of any of the risks behind subcontracting.

Were you aware that S International Group, otherwise known as SIG, was intended to perform the subcontracting through SNP if it was successful in obtaining the contract?---Just from the response from SNP in the tender documentation.

And did you ever discuss the suitability or otherwise of SIG to perform that role?---So I, we, so my scoring was, once, once I did my independent

scoring, we came together as a team and discussed the issue, the, I guess, any of those companies that had subcontracted, and I was given no other information about potential risks and issues, so I just continued with the score the way it was.

10 If we can go to page 8 of Exhibit 136, please. You talk about Mr Owens's appointment as the subject matter expert was driven by the business in terms of having more subject matter expertise. Now, that's Mr Owens's appointment to the Tender Evaluation Committee, is that right?---I think that's just his appointment in general, overall, to the project. So - - -

Well, he was, he was a committee member, wasn't he?---He was, but he had to be, he had to be engaged by the university first to then, he became the committee member after that as part, as part of the project, yeah.

20 So he couldn't come on first up as a committee member. He had to, what, have some formal role within the university before - - -?---No, no, I'm saying he had, he had to submit, like, a proposal or request for quote and then he became, he got a contract and became part of the, engaged by the university.

So you understood him to be the expert in the security industry that the committee could rely on for advice, did you?---That's, that's what he was, that's my understanding of what Dave, Dave's role was.

Did you understand Dennis Smith to have any expertise in the security industry?---I knew he was in the security team but I, I didn't know any of his background or what he, what his accolades were.

30 So Mr Owens, having the subject matter expertise, is it your evidence that he never raised possible risks that could be associated with subcontractors in the security industry?---I don't recall him raising, us having those discussions in detail which would have prompted us to change scoring with regards to subcontractors. I was told that the response that they provided was adequate, so we just continued with the scoring and the evaluation process.

40 Just wondering if Exhibit 70, page 253, can be brought on the screen.---If we can just skip over, please, to page 255. This is an email from Ms Davis to members of the committee. Do you see that?---Yeah, yeah, do.

Do you recall receiving that email?---I remember this email, yeah.

So if we just go, she's asking for some information to get SNP essentially approved as the contracting party for the master services agreement, right? ---Yes.

So she asks for some assistance. And if we just go back to page 253. Mr Owens responded to Ms Davis and Mr Smith, copying in you and Mr Smith again. Now, just thinking about that process, that was an email that Ms Davis wrote to all of the members.---Yeah.

Would you have ordinarily expected that responses would be transparent so a reply all type email?---Yeah, oh, I would, yeah.

10 And you can see the first point that Mr Owens raises is that, “The other security companies that applied for the contract gave a graduating increasing scale for after-hours rates.”---Ah hmm.

SNP gave the one flat rate, which is discussed as the potential for a substantial saving for the university over the life of the contract.”---Yeah.

And it goes on. That issue, that SNP was the only tenderer to provide a flat rate for out-of-contract hours versus the others that were providing this graduating scale, was that ever discussed amongst the committee members?
---It was, because there was a number of rounds of evaluation clarification
20 in that tender process, so the pricing, I do remember having discussions about the flat rate and we did go back to the, the, I didn’t go, I don’t think I went directly with me going back to SNP, but Zoe did I think and clarified with SNP about that flat rate, so we did have that discussion.

Well, clarifying it with, you said Zoe clarified it with SNP. Was that just the actual rate itself?---I guess it’s the methodology behind the flat rate where we, I think we were looking at the other suppliers and wondering where they had that increase in that year on year or whatever it may be, but SNP had that flat rate, we wanted to question how can they maintain that.
30

And when that exercise was going on, inquiring into whether SNP could maintain the flat rate, did you have any understanding as to whether there was a subcontractor involved in that arrangement for the out-of-contract hours?---Just from what they submitted in the tender schedules. So I know that they were subcontracting to SIG.

All right. So you knew that at the time, that there, that SNP had proposed to subcontract to SIG, and there was some inquiry going on as to whether the rate would remain as had been stated.---Yeah.
40

Was there ever any analysis to see whether the rate was sustainable, given the potential for a subcontracting arrangement and whether the rate that was being offered was properly legal in accordance with industrial requirements?---I don’t think it went to, it didn’t go to that level of analysis in terms of modelling it out and, and seeing if it, if it matches the, so the industry, sorry, I didn’t get that last but that you said.

Sorry, industrial relations requirements.---Yeah, we didn't, we didn't go into that level of detail.

Commissioner, I do have a bit with this witness and there might be some questions, so I don't think we can finish him today unfortunately.

THE COMMISSIONER: All right. I'm sorry, you have to come back and I know you were waiting around for a fair bit today, but you have to come back tomorrow morning.

10

THE WITNESS: Yeah, yeah, no problems.

THE COMMISSIONER: All right. We'll adjourn till 10 o'clock. 10 o'clock or 9.30? 9.30.

MR ENGLISH: 9.30, yeah.

THE WITNESS STOOD DOWN

[4.03pm]

20

AT 4.03PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.03pm]