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COMPULSORY
EXAMINATION

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INDEPENDENT COMMISSION AGAINST CORRUPTION

STEPHEN RUSHTON SC
COMMISSIONER

COMPULSORY EXAMINATION

OPERATION GERDA

Reference: Operation Gerda E17/0445

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 1 FEBRUARY, 2019

AT 1.45PM

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

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

THE COMMISSIONER: Take a seat. This is a compulsory examination of Mr Ben Pfitzner, P-f-i-t-z-n-e-r. Mr Pfitzner, I understand you're unrepresented. Is that right?

MR PFITZNER: Yeah, unrepresented, yeah.

THE COMMISSIONER: Okay. And I understand also that you'll take an affirmation - - -

10 MR PFITZNER: Yes.

THE COMMISSIONER: - - - before giving your evidence.

MR PFITZNER: Yes.

THE COMMISSIONER: Thank you. We'll have that administered now.

<BEN MINTOV PFITZNER, affirmed

[1.48pm]

THE COMMISSIONER: Before I ask Mr Baine to proceed to ask questions, there are a number of orders that I wish to make and I'll explain them as I go along.

The first one is an order which is going to limit the number of people who can be in here because we want to protect confidentiality of what is said.

10

So pursuant to section 31A of the Independent Commission Against Corruption Act 1988 I direct that the following persons may be present at this compulsory examination, namely Commission officers, including transcription staff, and the witness, Mr Pfitzner.

I also propose to make a non-publication order under section 112 of the Independent Commission Against Corruption Act, restricting the publication of information with respect to this compulsory examination.

20

The direction will prevent those present today, including the witness and other than Commission officers, from publishing or communicating information relevant to this compulsory examination. It will permit Commission officers to publish or communicate information for statutory purposes or pursuant to any further order made by the Commission. The direction may be varied or lifted by the Commission without notification if the Commission is satisfied that it is necessary or desirable to do so in the public interest.

30

Being satisfied that it is necessary and desirable in the public interest to do so, I direct pursuant to section 112 of the Independent Commission Against Corruption Act 1988 that the evidence given by this witness, the contents of any exhibits tendered, the contents of any documents shown to him, any information that might enable him to be identified and the fact that the

witness has given evidence today shall not be published or otherwise communicated to anyone except by Commission officers for statutory purposes or pursuant to further order of the Commission.

BEING SATISFIED THAT IT IS NECESSARY AND DESIRABLE IN THE PUBLIC INTEREST TO DO SO, I DIRECT PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT 1988 THAT THE EVIDENCE GIVEN BY THIS
10 **WITNESS, THE CONTENTS OF ANY EXHIBITS TENDERED, THE CONTENTS OF ANY DOCUMENTS SHOWN TO HIM, ANY INFORMATION THAT MIGHT ENABLE HIM TO BE IDENTIFIED AND THE FACT THAT THE WITNESS HAS GIVEN EVIDENCE TODAY SHALL NOT BE PUBLISHED OR OTHERWISE COMMUNICATED TO ANYONE EXCEPT BY COMMISSION OFFICERS FOR STATUTORY PURPOSES OR PURSUANT TO FURTHER ORDER OF THE COMMISSION.**

20 THE COMMISSIONER: Now, what that means in substance, Mr Pfitzner, is that what happens here today stays here. You're not at liberty to go out and talk people about the questions you were asked, the documents you were shown or your evidence. Do you understand that?---Yes.

I should point out to you that it is a criminal offence for any person to breach the order I've just made. Do you understand that?---Yes.

Thank you. And I'll just tell you a little bit about your obligations and your rights as a witness who has been summonsed to give evidence before this
30 Commission. As a witness you must answer all questions truthfully and you must produce any item that I require you to produce during the course of your evidence. You can object to answering a question or producing an

item. The effect of that objection is that although you must still answer the question or produce the item, you answer or the item produced cannot be used against you in any civil proceedings or, subject to an important exception, in any criminal proceedings. Now, to save you the trouble of trying to object when a question's asked and then you having to answer it anyway getting that protection, I can make what's called a section 38 declaration. The effect of that is that you don't have to keep on saying, "I object" and then answer. It will protect you without taking that course, which is very clumsy obviously. So would you like me to make a
10 declaration pursuant to section 38 for your protection?---Yes.

Thank you. I'll do that in a moment, but I should point out to you as I noted a moment ago that there is an important exception for the fact that what you say this afternoon can't be used against you. It can be used against you in a prosecution for an offence under the ICAC Act, and that is most importantly, an offence of giving false or misleading evidence. If you give false or misleading evidence to this Commission what you say can be used to prove that you have given false evidence and it is a very, very serious offence to give false evidence to this Commission, it's a serious criminal
20 offence which can lead to imprisonment for up to five years. So it's self-evidently a serious thing to give false or misleading evidence this afternoon. Do you understand that?---Yes.

All right. 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 compulsory examination are to be regarded as having been given or produced on objection and there is no need for the witness to make
30 objection in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS COMPULSORY EXAMINATION 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
10 **THING PRODUCED.**

THE COMMISSIONER: Yes, Mr Baine.

MR BAINE: Thank you, Commissioner.

Would you please state your full name for the record.---My name is Ben Mintov Pfitzner.

20 Thank you. And your date of birth?---[REDACTED]

Your residential address?---[REDACTED],
[REDACTED]

And your email address?--[REDACTED]

Now, what about your mobile telephone?--[REDACTED]

And how long have you used that number for?---I've had that my whole, the
30 whole time I've had a phone.

Sure.---Yeah.

Okay. Now, Mr Pfitzner, what's your occupation?---Security officer.

And where are you currently employed?---SCG.

SCG.---Yeah.

And who's your employer?---The trust.

10 Okay.---Yeah.

All right. So you previously worked for S International Group?---That's correct.

When did you start working for SIG?---It was February 2016 I think, yeah.

All right. And when did you cease working for SIG?---July, sorry, I may have those dates mixed up, 2017.

20 2017.---Yeah.

So you worked for SIG for approximately a year and a quarter.---Yeah, yeah.

All right. And after leaving SIG did you commence at the SCG?---No. I went to Australia Post.

All right.---Yeah.

30 Also working in security?---No, no, I was a postman.

Okay.---Yeah.

And before working at SIG, whereabouts did you work?---I worked at Queen Victoria Building with Egroup Security.

Right. So how did you hear about SIG and why did you apply for a job there?---I was recommended by a friend and then he took me to meet the owner, Tommy, and that's, that's how I got the job.

All right. Why did you resign?---From Egroup or from - - -

10

From SIG.---I got the full-time job, I was after full-time work and I wasn't, I wasn't happy there.

Why weren't you happy at SIG?---Just the things that was going on there and the fact that I was not full-time, I was a subcontracted employee so I was getting cash in hand and I wasn't happy with, with that arrangement.

So was that the only thing that you were unhappy about?---I was also happy [sic] with some of the other proceedings that was going on, like a lot of the, well, pretty much why we're here.

20

So we might come to some of those more specific details shortly.---Yeah, yeah.

But generally what was the conduct that you observed happening at SIG that - - -?---Well, as you guys are aware, there was, as we call it, ghosting shifts, so people were writing down names on the shifts and yeah, I was instructed by certain people to, to take part as well.

30 Who were those people?---The main guy was Emir, I think his surname is Balicevac or, yeah.

Okay.---He was the assistant site supervisor, also the, the rostering coordinator, Frank Lu, and also occasionally by the SIG office staff.

Right. So what is it that they told you to do?---Well, Emir usually come to me and said, asked if I could help him in covering shifts or other times guards would work their 12-hour shifts and then they would stay for a second shift and then they would write a different name down onto the, the roster, so they were actually working 24 hours or longer.

10 And how did Emir initially approach you and present this opportunity?
---He asked if I could help him, that was pretty much how, how he said it, yeah.

Right. And when you said yes, what did he explain?---He just wanted me to cover, cover the, with my core guards, 'cause I was a team leader, he wanted me to cover a shift with my, with my core guards. That's, that's pretty much how it, yeah.

20 So I understand that to mean that you would instruct your patrol officers to go and carry out the work - - -?---That's correct.

- - - but you would then get paid for the work that they performed?---Well, the arrangement was that Emir would instruct me approximately how much money would be involved.

Right.---Yeah.

30 And was that a fixed figure or did it vary from time to time?---It, it was, it just, there was just extra in the, in, in my pay.

Okay.---Yeah.

So Emir is an SNP employee, you were an SIG employee. Why do you think he approached you?---Well, originally he was SIG as well.

Right.---And then he moved across to SNP when he was, become the assistant site supervisor, yeah.

So did he think that he could trust you?---I, I, I think so. Why else would he ask?

10 Did he ask the other team, did you know that he asked the other team leaders?---Yes, yes, I know, yeah.

Right. And who were the other team leaders that he asked?---Frank Lu, Amyna Huda and Kerem Akkan.

Right.---Yeah.

Okay. And was it lucrative to do this?---Not really. I had my core hours and occasionally he would ask me to help him, it wasn't, yeah.

20

So you were paid approximately how much each week from SIG?---My - - -

Accounting for the fact that you had a long week and a short week.

---Okay. So my long week usually was around \$1,100, so that was for a 48-hour, sorry, a fortnight, yeah, 48 hours, and I usually did a rotating roster so four on/four off.

Yes.---So other weeks I would get paid for 36 hours at a \$23 rate.

30 So you worked for SIG for approximately 18 months. That would – sorry, 15 months.---Yes.

That would have come to about what, 70 grand, that you might have made in your salary from SIG.---Mmm, approximately, yeah.

And then everything above that you would have earned as a result of the scheme that Emir told you about.---That's right.

And what about Frank? Did he have much involvement?---Well, he was the rostering coordinator, so he, he knew, he was in charge of doing the rostering for SIG.

10

So did that mean that he gave you and supplied you with a name that you could use?---False names, yes.

And what about some, the licence number of the guard?---That's correct.

And we might come back to this later, but what about signing on the time sheet under the false name? Who would do that?---It was, it only happened occasionally. Most, most of the time it was, they locked the roster away, so it was only occasionally that they instructed me to falsify the documents.

20

So whereabouts was the roster kept?---In Emir's drawer.

In Emir's drawer.---Yeah.

And where was Emir's drawer located?---Next to the site manager.

So was that in an open-plan space?---That's correct.

Did you have access to Emir's drawer or did you have to ask him?---Not, 30 not very often. He would instruct me where the key is or - - -

So how did you find Emir to be as a manager?---Well, he wasn't exactly the manager. It was Dennis Smith that was the manager. He was just the assistant site supervisor.

So as a person with responsibilities, though, how did you find Emir's leadership style?---Occasionally a bit erratic, yeah.

Was Emir an intimidating person?---He, he could be occasionally, yeah.

10 Was he intimidating to you?---Not very often. Like, occasionally he could, I guess.

Was he intimidating to others on-site?---Not that I'm aware of.

And what about Dennis Smith? Did you have much to do with him?---We had a fairly good rapport.

Just professionally or - - -?---Professionally, yeah.

20 And what would you speak to him about?---Well, he was the area commander previously of my, where I grew up, in the Riverina, so we'd talk about, you know, where I grew up occasionally.

So as far as managing your responsibilities at the University of Sydney, did you see him carry out supervisory checks that you were on-site?---He was not very thorough with, with that.

30 What do you mean by that?---He relied more upon the, yes, Daryl McCreadie, which was the supervisor, and, and, and Emir for all that sort of work, yeah.

Were they more thorough?---Well, obviously not because they didn't check, you know, the, who was on-site or at what time as far as I'm aware.

So you mentioned that you left the University of Sydney because of the issues that we're talking about today.---Because, yeah, there was a lot of pressure, yeah.

Was there anybody else that you knew who left the University of Sydney for similar reasons?---Not that I'm aware of. I haven't, since I left, I haven't
10 been in contact with anyone.

And was there an incident that, other than the full-time employment, but was there an incident that you thought about during your time at the University of Sydney where you saw conduct that you disagreed with?---
Well all the time.

But did you do anything about that?---Well, not me personally because I needed the pay cheque. I had, I had bills, you know. And I was actively seeking employment with other companies but it just didn't happen until
20 July.

Would there have been consequences for you if you had have spoken out?
---I would have lost my job.

Who would have been responsible for that?---Well, Tommy was my employer and he was, if he didn't get his way, he was quite aggressive.

Did you have much interaction with Tommy?---I've met him maybe a handful of times but it was mainly over the phone.
30

And what are the examples that you're referring to?---Okay, I'll give you an example. When I took on the role of team leader, they instructed me that I

needed to become a full-time employee of SNP. He found out and he was quite upset, and I received a call from him stating that he was not happy about me leaving his company for SNP. But then SNP told me that 'cause of my previous injuries, 'cause of my back injuries, I didn't pass the medical, so they instructed me that if I wanted to continue working at, and take the position of team leader, I had to continue working with SIG.

So you applied for a job with SNP?---Yes.

10 And they failed you - - -?---Yes.

- - - as a result of - - -?---That's correct.

- - - of a pre-existing injury- - -?---Correct, that's correct.

Right. And did you know that SNP – I withdraw that. Do you think that SNP knew about the conduct that was occurring at the university?---Well, it, I don't know about the company knowing, but their employees certainly knew.

20

So Tommy knew about the conduct that was occurring at the university.

---Yes, he would have, yeah.

And did you have much to do with the administrative staff at SIG?---No. I would, we would go in every week and collect the pay for everyone, and that was it.

And how were you paid?---Cash.

30 Did you know that part of your salary was recorded on the books?---That's correct.

Why was that?---They instructed me to do that.

Now, do you know how many hours per week was recorded on the books?

---Approximately 20.

And do you remember the conversation that you had with – and who was it with? Was it with Tommy or one of the administrative managers.---It would have been one of the girls. I don't remember the girls' names, yeah.

10 Now, do you remember what you were told?---At first they wanted more on the books and then they told me to have less 'cause then they paid less tax and I paid less tax.

So did they pay you money into a superannuation account?---No.

And did they pay tax on your on-book salary?---I'm not sure. As far as I'm aware, I don't think so.

20 And did you receive that 20 hours in cash or did you have that money deposited into your bank account?---Deposited.

So each week you were working at SIG, you had a portion in cash and then you had a portion in EFT?---That's correct. That's correct.

And did anybody else at SIG have an arrangement similar to this?---I didn't inquire 'cause it wasn't my business.

30 Do you know why they treated you like this? Why they wanted you to have a portion of your salary on - - -?---I'm not sure. Originally I wanted them to put me as full-time but they said that's not possible.

Right. Do you know if they had any full-time employees?---I'm not sure.

And do you know – I withdraw that. Do you agree that it would be advantageous for them not to have full-time employees because they don't have to pay things like holiday leave and sick leave?---Yes.

And you never received any holiday leave or sick leave?---No, no.

Do you know who came up with this scheme?---I'm guessing it must have been Tommy because it was his company.

10

And do you think, what – I withdraw that. Why do you think he came up with this arrangement?---He was just there for profit. He didn't care about the guards. He just wanted profit.

And how was he able to maximise profit?---By paying all of us with cash.

And would you agree that he also reduced his tax bill that way?---Yes.

20 And do you think that he had assistance from the administrative staff in setting this scheme up?---Yeah, yes, I guess so, yeah, yeah.

And did you at any point raise with anyone the fact that you thought SIG were not paying tax to their employees?---No, because I was desperate for work at the time.

And (not transcribable) that they weren't taxing the portion of your salary? ---Yeah. Well, they said they were taxing us, so I just have to take their word for it.

30 You agreed, you accepted? You had no reason to doubt what they were saying?---I had no reason to doubt it, yeah.

Now, Mr Pfitzner, did you submit time sheets to SIG where you claimed more shifts than you were rostered to perform?---Yes.

And your evidence is that you did that under instruction?---Yes. They would instruct me which shifts that needed to be claimed and I would send that to them.

Now, when you say “they”, do you mean Emir or do you mean - - -?

---Usually Emir. Sometimes Frank.

10

And did you submit time sheets to SIG where you claimed shifts using the name of another person?---On occasion, yes.

Now, why do you think they did that?---Because for, for them to use a current person working on-site, it’s not, it’s not possible, I guess, so they, they need to use someone that’s not working to make it look like that they’re there on-site.

But you were an SIG employee.---That’s right.

20

So I wonder what, can you provide an explanation for why they would have wanted you to perform shifts under someone else’s name?---I never performed it under anyone’s name but they, those names were instructed, I was instructed to use those when I was using my guards to cover the shifts, so I wasn’t working under those names but that’s, yeah.

So do I understand what you've said to mean that you would ask your patrol staff to go and perform the work - - -?---That’s right.

30

- - - you would record the work that they’d performed under someone else’s name, but you would then get paid for that shift?---That’s correct, yeah. But I wasn’t paid the full amount for that shift.

Who received the other portion of the pay?---Well, I'm guessing Emir because he was, he was the only one that, yeah, he, he was usually the guy that was instructing me to do, you know, to cover the shifts.

And how did you - - -

THE COMMISSIONER: When you say “cover the shifts”, do I understand your evidence that he rings you up and wants you to deploy, I think you
10 described it as your core guards.---Yeah.

And to, that you'd all pretend that somebody had actually done it, is that right?---That's correct.

And then you would put in a claim, what, under your name? No, sorry, under other names, is that right?---That's correct.

And then the amount of money that those other names supposedly earned was split between you and Emir?---That's correct.
20

MR BAIN: So under the explanation that you've just given to the Commissioner, that would mean that you would never vacate your role as a team leader to go perform tasks that Emir and Frank asked you to do.
---Occasionally I would cover the shifts myself, yes.

But in the circumstances you've just explained to the Commissioner, you would stay in your team leader role and you would - - -?---I was covering my team leader role and I was also covering the other shift on occasion.

30 On occasion. But on the other explanation, where you would send your patrol guards out - - -?---That's right.

- - - you would stay in your team leader functions - - -?---That's correct.

- - - and the patrol guards would leave their patrolling functions to go perform - - -?---That's correct.

- - - an ad hoc shift for a few hours.---That's correct.

And then they would return to that work.---That's right.

10 Now, did you submit any time sheets to SIG where you claimed for shifts that you did not actually perform?---What, on my shift or is that, sorry, I don't - - -

So did you – I'll ask it again.---Yeah.

Did you submit time sheets to SIG which included claims for shifts - - -?
---Under - - -

- - - where the work was not actually performed?---Occasionally, yes, yes.
20

So would you like to tell the Commission about that or those examples?
---So SIG needed to know which shifts were covered by other people.
That's pretty much basically it, yeah.

And how would that be done?---Well, I would submit the time sheet with the false names on it.

THE COMMISSIONER: And you'd get paid for work that you hadn't done?---That's right.

30

Yes, okay. All right, thank you.

MR BAINE: Now, the people at SNP who would have known about this included Emir and Frank and Daryl. The other SNP team leaders at the University of Sydney, they would have known too.---That's correct.

Did you hear any rumour that anyone at the SNP head office knew?---I had nothing to do with SNP, really, besides the, the guys on-site.

And what about the University of Sydney? Do you think anyone at the University of Sydney knew what was occurring?---Well, I don't think so.

10

What about Dennis Smith?---Possibly. He seemed like a smart individual but I'm not, I'm not sure.

THE COMMISSIONER: Did you say a little earlier that he occupied a desk next to - - -?---Emir.

Next to Emir.---Yeah, directly next to him, yeah.

20 Directly next to him, yes.---But like I said, well, I didn't say it, but they were in a separate area to us, so we, we didn't have much dealings unless directly, you know, I had nothing to do with the rostering and so forth, yeah.

MR BAINE: Did you ever think anyone would find out about the scheme?
---Yes.

And what made you think that people would find out?---Well, it's a government site, so they do audits.

30 And did it surprise you that there was no examples of people coming up to you saying, "Oh, there appears to be some inconsistencies with the time sheets"?---No, because like it's previously stated, a lot of the guards were profiting as well. Like, they were doing extra shifts, so double shifts, and

writing false names for the second shift. So they were practically working two shifts in a row, which was, would be twenty-four hours.

So, Mr Pfitzner, you've said that you were paid in cash.---Yeah.

Where did you collect that money from?---From the SIG office.

So you would go to the SIG office in Mascot?---That's right.

10 And you would pick up an envelope full of cash?---That's right.

Who did you collect it from?---From the office girls.

Do you remember their names?---So Lynn was the, the, like, I've known her since the start of it, then they had other girls. I don't know their names. I think there was maybe two or three girls there, Chinese girls.

And did you ever go to the SIG office in Mascot and collect cash envelopes for lots of other people?---Yes.

20

And the process there was you would go and the SIG staff would give you a large envelope containing all of the smaller envelopes - - -?---Yes, that's correct.

- - - that would be given to guards?---That's correct.

You'd take that back to the university - - -?---That's right.

- - - and then the guards would come and collect it.---Yes.

30

And the other experience that you've had working in the security industry at, was it Egroup, did you ever get paid in cash there?---Yes.

And what about at the SCG through the trust?---No. It's all on the books.

So did you hear any rumours that SIG was paying any gifts or benefits to anyone at the University of Sydney?---Yes.

Tell me about that.---The other team leaders. All, all three.

10 What were they receiving?---Well, I don't know exactly the sums but they were, they had the same arrangement.

So other than cash payments in a scheme similar to what we've just described, were you aware of SIG paying anyone at the University of Sydney any other gifts or benefits, or providing any other gifts or benefits? ---Well, Frank Lu was the rostering coordinator, so as far as I know he was getting paid by SIG a secondary wage. I'm not sure if that was cash or on the books 'cause I never asked.

20 But you heard no rumours of people from SIG providing, for example, gift cards or restaurant vouchers or flights to people at the University of Sydney?---No, not that I'm aware of, no.

And you have no knowledge of that but you've also heard no rumours of that either?---Not that I'm aware of, no.

Mr Pfitzner, I'd like to show you some documents.---Yeah.

THE COMMISSIONER: I might tender that up front.

30 MR BAINE: Thank you, Commissioner.

THE COMMISSIONER: The document shown to the witness will be marked Exhibit 32.

**#EXH-032 – BUNDLE OF DOCUMENTS SHOWN TO BEN
PFITZNER IN THE COMPULSORY EXAMINATION 1 FEBRUARY
2019**

10 MR BAINÉ: Now, we might go through a few of these together, Mr Pfitzner, but you'll see that the first document is an email from you to SIG on the 29th of August, 2016.---Yeah.

And then if you go to page 2 of the bundle, you'll see that the first page is all of your team leader shifts. Would you agree with that?---Yes.

So you performed 48 hours of team leader shifts during that week.---Yeah.

20 And then if you turn to page 3 you will see some shifts that you have covered.---Yeah.

Now, you can see here, the name on the 25th, Isaac Yanni.---Yep.

Is your recollection of what happened her similar to - - -?---Exactly what I stated.

- - - the answer you provide to the Commissioner?---Yeah.

30 So this guard, a patrol officer would have been assigned to go to work?
---That's correct. It was either a patrol guard or myself that was – yeah.

And then we can see that on the 26th of August, there were two shifts. There was one for Isaac – there were actually three. There was one for Isaac Yanni, one for a Devlin and then a third shift that you split between yourself and Emir. Now, what would happen when you shared a shift with Emir?--- That was cash, the money, yeah. We got the money.

But on an example like this, where you've split the shift with Emir, was it common that he would actually do any of the work?---No.

10 He'd leave it to you to do all of the work?---Through the team leader in charge on the day.

So an access shift is a locking and unlocking shift, isn't it?---That's correct.

So do you – oh, it doesn't identify where the building is but you would say that in an example like this, you would have gone and done the access opening for the - - -?---Possibly myself or one of the patrol guards.

20 Or one of the patrol guards. And then you or possibly one of the patrol guards would have then been responsible for closing the building and if there was an escort - - -?---Depending on what sort of shift it is, was, how, when it was, would have been closed. Yeah. So it might have just stayed open.

But when you look at something like this right here, which says "Half to me, half to Emir," your response is that it's unlikely Emir would have done any of that work?---Yeah, that's correct.

30 So is what you're saying that it was common for Emir to claim for shifts that he did not actually work?---Well, all these shifts on this page, he would have come to me and said, "Can you cover the shifts?"

Right. But this one seems to be different in that he's - - -?---So he's probably, I'm not, I can't remember, but he probably would have rung me later on and asked if I could do that.

So do you recall how he would discuss a matter like this, where he split the shift with you? Would you do the work and then at a later time he would call you and say - - -?---We would always do the work. Whoever was on duty would do the work.

- 10 I suppose I'm just trying to find out whether or not Emir would notify you in advance that he would be splitting the shift with you or if he would call you after the fact and say, "Please tell SIG"?---Most of the time he would come to me beforehand.

Now, Mr Pfitzner, if you added up all of the hours in this time sheet, you would get to 88 hours. So you put in a claim for 88 hours of work. If we – and I beg your pardon, that is in addition to the 48 hours that were claimed on the previous sheet.---Yep.

- 20 So if we turn now over on to page 4, you can see that this is a copy of the same document but it now has some handwritten annotations on it.---Okay.

While I can't identify who is responsible for those handwritten annotations, let's assume that it was SIG and they are reconciling this time sheet with their payroll records and they're preparing the payroll for the following week. Do you see that they have now reduced the number of hours from 88 to 76?---Yes.

- 30 And do you see that that have made a comment on two occasions where it says, "Share with Frank" "Share with Frank"?---Yes.

So can you explain what might have happened there?---Well, as I previously stated, it was either Emir or Frank that come to me with the shifts, like, to cover. Yeah. So - - -

And so – okay.---Yeah but I’m not sure. I mean, yeah, I’m not sure what else to say about that.

First of all, do you recognise this handwriting in blue as your own?---No.

10 So would you agree that the reduction of the 12 hours has been because Frank has, in all likelihood, spoken with someone at SIG and said, “Oh, I want to claim half of those hours that Ben worked,” and then they have reduced the money that was to be paid to you because - - -?---Or as I previously stated, he was the rostering coordinator, so I’m guessing that that was the case, yeah.

So, he had control of those matters?---That’s correct, yeah.

20 So did you have experiences like this occur frequently, where you were paid less money than what you thought you would be receiving?---I, I didn’t ask questions. I was just grateful for the money. Yeah.

Do you recall how much you were paid per hour?---23 for the team leadership.

And do you have any recollection of, or do you have any knowledge of what team leader rates under awards were supposed to be?---At the time, I’m not sure.

30 Do you know if – do you have any suspicion if you were paid more or less than what the award was?---It would have been pretty similar maybe, I’m not sure, yeah. Because I, it was shift work.

So Mr Pfitzner, if we turn now to page 5, you can see that there's some highlighting on the document which has been provided for your assistance. Now, do you recognise that handwriting to be your own handwriting for the name Ben Pfitzner?---That's correct.

And is that your signature?---That's my signature.

And is that your licence number, security licence number?---Yes.

10

Now, the shift identified as being performed by Isaac Yanni is also a shift that was mentioned in your time sheet as being claimed by you but is that your handwriting?---That's not my handwriting.

And what about the signature?---That's not my signature.

Do you know whose handwriting or signature that might be?---No. I don't know.

20 Do you have a suspicion of who it might be?---It could either be, well, I, I don't know, I, yeah.

Who was responsible for looking after the site time sheet?---Emir.

And Frank?---And Frank, yeah. But it was mainly Emir. He was in charge of the time sheets, yeah.

30 Now, if we turn to page 6, you'll also see that the name Oliveria Bejatovic has been highlighted. One again, do you recognise that as your handwriting or signature?---That's not my handwriting.

And signature?---That's not my signature.

Now, if we turn to page 7, you'll see, again, a team leader shift during the night-time performed by you. Is that your - - -?---That's my handwriting.

Handwriting and signature?---Yes.

And then if we turn over to page 8, you will see the name, I think it was Delvin on your personal time sheet, is that your handwriting?---That's not my handwriting.

10

And if we turn over to page 9 again, Isaac Yanni was identified on your personal time sheet as a shift that you have claimed.---That looks like my handwriting.

I beg your pardon?---That looks like my handwriting.

It looks like your handwriting, does it?---Yeah. Possibly, I'm not, maybe not. Yeah.

20 What would a static maze tent shift have involved?---The guard would just stay in the tent and look after the equipment inside the tent.

For 14 hours, 12 hours?---12 hours, yeah.

12 hours, yes. Now, why on this occasion do you think you have – assuming that it is your handwriting, why on this occasion do you think you've completed the site time sheet?---As I previously stated, occasionally I was instructed to falsify the documents and other occasions, I was instructed to leave the area blank and then they would put the names in and
30 whatever it is, yeah.

And who instructed you to do that?---Emir or Frank.

And was it only ever Emir or Frank?---Usually, yeah, yeah.

Was there anyone else?---That instructed me, no.

All right.

THE COMMISSIONER: And were other guards doing work from time to time under your name?---I'm not sure, yeah.

10

MR BAINE: Now, Mr Pfitzner, we'll just complete this very quickly.
---Yeah.

But again, on page 10 you can see your signature. You agree that that's your own?---Yeah.

Under the name Ben Pfitzner?---Yes.

All right. And then if we turn to page 11, Sibel Isli, that was a shift
20 identified as being performed by you. Do you recognise - - -?---That's, that's my handwriting.

Okay.---Yeah.

All right. Thank you. And then over on page 12 there are some signatures.
---Yeah, that, that looks like my handwriting.

For both Isaac and - - -?---That's right.

30 - - - Mr Javid? Right. And now just finally on page 13, these are two shifts which are identified as having been performed by you.---By me?

That's right, on the personal time sheet back on - - -?---Okay.

Sorry, on the personal time sheet back on page 3, the names Ihssan Bataineh and Fatima Syeda.---That doesn't look like my handwriting.

Okay.---Yeah.

All right. Thank you. So on the page that follows, Mr Pfitzner, page 14 - - - ?---Yeah.

10

- - - you'll see that this is a document prepared by the Commission and what it identifies is the shifts claimed by you on your personal time sheet on the 29th of August, 2018.---Yeah.

And the shifts highlighted in green are those that you performed using your own name and were SIG shifts, and then the shifts in red are those shifts that were performed using the names of other people. Do you see that?---Yeah, I can see it, yeah.

20 Now, you can see that on a number of occasions that most particularly on the 26th of August, 2016, it appears as though you are working four shifts at the same time.---Okay.

Is there any comment that you would like to make about that where the appearance is that you're working four shifts at the same time?---Just what I previously stated, that yeah.

THE COMMISSIONER: Just, can you just explain that to me?---Well, like I previously stated, when instructed, I was instructed to cover the shifts and
30 that's what I did, yeah.

MR BAINÉ: But do you think that you would have worked all four of those shifts at the same time?---No.

And who were the people who would have potentially worked these shifts?
---Well, the, the patrol guards, yeah.

Right. And on the 28th of August you're not rostered to perform any SIG work. Was it common that you would come in and work an additional shift on your days off?---Well, I don't even recall this 'cause I'd never come in
10 on my days off.

You never come in on your days off.---I mean occasionally I'd come in but I would use my name if I was coming in on my days off.

All right.---Yeah.

So when I asked you before as an SIG employee - - -?---Yeah.

- - - it would seem unusual that you would want to conceal working shifts
20 that you performed yourself, additional shifts that you performed yourself, you would tell, you're saying to the Commission that where cover names have been used it was a combination of either you assigning guards to perform that work or sometimes you doing the work yourself?---Or it wasn't covered at all.

Or it wasn't covered at all. Exactly. Now, would you turn to page 15. Once again this is an email from you to SIG on the 31st of October, 2016.---
Or it wasn't covered at all. Yeah.

30 You say your time sheet for the week prior.---Yeah.

And then on page 16 we can see the time sheet.---Yep.

Now, on the first page you again have your 48-hour four shifts, 48 hours of work performed over four shifts, and then if we turn over onto page 17, on this occasion there's only one shift that you covered using someone else's name.---Yeah.

Although, and that was on the 28th of October, which is a Friday, from 4.00pm until 6.00am, a 14-hour shift.---Okay.

- 10 Do you remember doing this power shut down shift?---I don't remember, but that's my handwriting so - - -

And on this occasion where there's only one additional shift that you performed in this week, do you think it's likely that you would have performed that shift yourself?---Myself or another guard I would have instructed to do it.

All right. Well, perhaps this might provide a little bit of a guide.---Yeah.

- 20 You were working on the 28th of October from 5.30 in the morning until 5.30 in the afternoon, and then if you accept what this time sheet says, it then says you worked all night and then you came back in the next day to then do another shift at 5.30pm that evening. Do you have a recollection of working a 24-hour shift?---Not 24 hours, no, I never worked twenty - - -

You never worked a 24-hour shift?---No.

All right.

- 30 THE COMMISSIONER: You wouldn't be a very effective guard if you worked for 24 hours, would you?---But I, I do know a lot of guards on site that did work 24 hours, yeah.

Yes.---Yeah.

MR BAINÉ: Why did they do that?---Well, from the beginning they care more about covering the shifts than the guards' welfare, so they were more concerned about covering the core hours than who, who was performing the duties.

THE COMMISSIONER: When you say they, are you talking about SIG or
10 - - -?---Just the, the, the site in general, like, they just wanted it covered, they didn't care how it was covered, yeah.

MR BAINÉ: Thank you. Now - - -

THE COMMISSIONER: But they wanted it covered presumably without having to employ more guards?---Possibly, yeah, yeah.

MR BAINÉ: Mr Pfitzner, if you turn to page 18 you'll see a document. Now, I'll draw your attention to the date of this document, it's the 16th of
20 December, 2017. Now, on your evidence you've left SIG at that time. Do you see that your name has been used on the site time sheet?---Yes.

Now, do you recognise that to be your handwriting?---No.

And do you recognise that to be your security licence number?---No, it's wrong.

It's wrong, is it?---Yeah.

30 What's wrong about the number?---My licence number is 4-0-9-4-6-1-6-5-4, so 6, is that a 5? I can't tell what the end says.

So potentially if that number was correct it's still not your handwriting?

---That's not my handwriting.

And you'd agree that it wouldn't be difficult for someone at SIG to find out what your security licence number was?---Well, they'd have it on file and plus every time I signed a document it was with the security number so it would be on, on our records, yeah.

10 What's your reaction to seeing that your name was used on time sheets after you've left SIG?---It doesn't surprise me.

Why doesn't it surprise you?---Because of what's going on there, you know, it just doesn't surprise me.

All right. Now - - -

THE COMMISSIONER: Can I ask you this. Was your engagement by SIG, was that your first job within the security industry?---No, no, it wasn't.

20 How long have you been in it for?---Approximately 12 years.

Right. Is this practice of ghosting common across the industry?---Not, this was the first time I've heard of it.

Right.---Yeah, especially to this extent as well.

Yeah.---Yeah.

Okay. Thank you.

30

MR BAINE: Thank you, Commissioner.

Now, on page 19, Mr Pfitzner, which is the final page in this bundle, once again you'll see your name appears on the site time sheet, on this occasion on the 15th of April, 2018. Now, is that your handwriting?---No.

And is it your signature?---No.

And once again I take it you're not surprised to see that your - - -?---I'm not surprised.

10 - - - name and signature has appeared, on this occasion without a security licence number. Now, we've gone through a number of documents, Mr Pfitzner, and you've made a number of comments to the Commission about the scheme that was occurring at the University of Sydney. Is there anything else that you'd like to provide, any information, any additional information you'd like to provide the Commission with about your time at SIG or your reaction to the investigation that we're conducting?

THE COMMISSIONER: What we'd like to know is as much as you know.

20 THE WITNESS: Well, honestly, I wasn't surprised when I received the phone call that there was inquiry. Like I stated, I wanted to leave and I have proof that I was actively seeking work during the time I was still at the university, like I was looking for jobs as early as December of that year, and I just found it strange that they, it struck me that I had to stay working cash in hand if I wanted to continue my employment with, with the company. But yeah, I can't, that's all I know is what happened on my shift, I don't, I mean I've heard rumours about other shifts but I rarely worked on other people's shifts, so I can only tell you what happened on my shifts.

30 MR BAINE: Commissioner, those are my questions.

THE COMMISSIONER: All right. Has Mr Pfitzner received a summons in relation to the public inquiry?

MR BAINÉ: He has, Commissioner.

THE COMMISSIONER: The summons probably says that you've got to be here on the 11th of February, you don't, that's just to make sure everyone's available, but what will happen is, indeed correct me if I'm wrong, Mr Baine, but is there, is Mr Pfitzner definitely going to be called?

10

MR BAINÉ: It hasn't been decided yet, Commissioner.

THE COMMISSIONER: Hasn't been decided.

MR BAINÉ: Counsel Assisting is still reflecting on that.

THE COMMISSIONER: The situation is this, that what happened on the university doesn't seem to have been, is no longer a big secret.---Mmm.

20 So there's a number of people who say the same thing over and over again, I can tell you that, and it may be the decision is made that it's unnecessary to call you, but I can't tell you at the moment that that's the case.---Yep.

If it is then you'll be told, otherwise you're not required here on the 11th, but as soon as we know when you will be required in the week or so that follow that, we'll let you know.---Okay.

Anything else?

30 MR BAINÉ: No, that's all.

THE COMMISSIONER: Thank you very much for your assistance.

---That's okay.

And I'm going to adjourn now. Thank you.

THE WITNESS WITHDREW

[2.42pm]

AT 2.42PM THE MATTER WAS ADJOURNED ACCORDINGLY

10

[2.42pm]