

Thursday 26 September 2013

Allegations of corrupt conduct in the provision of security products and services by suppliers, installers and consultants

ICAC FINDINGS

The ICAC found that Daniel Paul, Peter (Charles) Diekman, Peter Roche, Paul Thompson, Robert Huskic, David McMicking and Jonathan Nguyen engaged in corrupt conduct as follows:

Daniel Paul, by:

- accepting \$13,000 from Mr Diekman in 2008 as a reward for Mr Paul assisting Kings Security Group Pty Ltd in relation to the University of Western Sydney (UWS) access control project and to influence him to favour Kings in relation to that project in the future
- deliberately failing to disclose to the UWS tender evaluation committee (TEC) his conflict of interest arising from his personal and financial relationship with Mr Diekman
- accepting \$20,000 in 2009 from Mr Diekman as a reward for Mr Paul having improperly exercised his public official functions to assist Kings to win an Art Gallery of NSW (AGNSW) tender
- accepting \$27,500 from Q Video Systems (QVS) in 2009 as a reward for improperly exercising his public official functions to assist QVS to become the main supplier of security products for the AGNSW contract
- deliberately failing to disclose to the AGNSW his conflicts of interest arising from his relationships with Mr Diekman, Kings and QVS
- deliberately failing to disclose to Sydney Ports Corporation (SPC) and to Woollahra Municipal Council his conflicts of interest arising from his relationships with Mr Diekman and Kings.

Peter (Charles) Diekman, by:

- paying Mr Paul \$13,000 in 2008 as a reward for Mr Paul Mr Paul improperly exercising his public official functions to assist Kings in relation to the UWS access control project and for further assistance that Mr Diekman anticipated Mr Paul might provide in the future
- arranging for Mr Paul to be paid \$20,000 in 2009 as a reward for Mr Paul exercising his public official functions to improperly assist Kings to win the AGNSW tender
- providing or authorising the provision of benefits to Mr Huskic, of the then Northern Sydney Central Coast Area Health Service (NSCCAHS) between 2006 and 2011 in return for Mr Huskic having exercised his public official functions to favour Kings and in the expectation that he would do so in the future
- agreeing with Mr Huskic, in 2010, to submit two dummy quotes to the NSCCAHS for the Gosford hospital carpark security upgrade, knowing Mr Huskic would represent them as genuine quotes, and authorising the submission of those quotes
- dishonestly providing Austek Security Solutions with the Kings costings for an SPC project in 2007 with the intention that these would be used by Austek managing director Jonathan Nguyen to submit a higher Austek quote to SPC, so Kings' chances of winning the contract for the SPC project would be increased.

Robert Huskic, by:

- seeking and accepting benefits from Mr Diekman between 2006 and 2011 in return for exercising his public official functions to favour Kings and in the expectation that he would do so in the future
- Requesting Mr Diekman, in 2010, to arrange for the creation of dummy quotes for the Gosford hospital carpark security upgrade and his use of those quotes, knowing they were false.

Peter Roche, by agreeing with Mr Diekman that:

- Mr Paul be paid \$20,000 in 2009 as a reward for Mr Paul exercising his public official functions to improperly assist Kings to win the AGNSW tender
- Mr Huskic be provided with benefits between 2006 and 2011 as a reward for Mr Huskic having exercised his public official duties to favour Kings in the expectation that he would do so in the future.

Paul Thompson, by arranging for Mr Paul to be paid \$27,500 by QVS in 2009 as a reward for Mr Paul exercising his public official functions to assist QVS to become the main supplier of security products for the AGNSW project.

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David McMicking, by agreeing with Mr Huskic, in 2010, to submit two dummy quotes to the NSCCAHS for the Gosford hospital carpark security upgrade, knowing Mr Huskic would represent them as genuine quotes, and authorising the submission of those quotes.

Jonathan Nguyen, by dishonestly using Kings' costings for the SPC project in 2007 to ensure that his company, Austek, submitted a higher quote than Kings to SPC, so that Kings' chances of winning the contract for the SPC project would be increased.

ICAC RECOMMENDATIONS

The ICAC is of the opinion that the advice of the Director of Public Prosecutions should be obtained with respect to the prosecution of:

- Daniel Paul for a criminal offence of corruptly receiving a benefit (\$13,000) from Mr Diekman contrary to section 249B(1) of the *Crimes Act 1900*
- Peter (Charles) Diekman for: a criminal offence of corruptly giving a benefit to Mr Paul contrary to section 249B(2) of the Crimes Act; criminal offences of corruptly giving rewards to Mr Huskic contrary to section 249B(2) of the Crimes Act, the criminal offence of fraud under section 192E of the Crimes Act or the criminal offence of using a false document under section 254 of the Crimes Act in relation to authorising the preparation and submission of the two dummy quotes
- Robert Huskic, for a criminal offence of using a false document under section 254 of the Crimes Act in relation to his use of the two dummy quotes.

CORRUPTION PREVENTION

The Commission has made 11 corruption prevention recommendations to address weaknesses in the procurement and management of security services by public authorities, including that NSW government agencies:

- ensure that overall responsibility for identified tasks associated with the selection of security integrators is maintained in-house
- explore alternatives to relying exclusively on the advice of specialist consultants when selecting security integrators through a competitive process
- embarking on new large-scale security projects should also adopt a rigorous product selection process,
- should ban employees directly involved in procurement activities from accepting any gifts, benefits and hospitality from potential and existing contractors and consultants.

BACKGROUND

In March 2009, the Commission received a complaint alleging that Mr Paul improperly favoured Kings in awarding it government contracts. The complainant claimed that, in return for Mr Paul awarding these contracts, Kings paid for Mr Paul's annual trips to a security industry in Las Vegas. The complainant also alleged that Mr Paul received about \$100,000 from Kings in return for favouring Kings in the tender for the security services contract of the AGNSW.

The Commission's investigation was initially focused on the allegations of corrupt conduct in relation to the AGNSW contract. As the investigation progressed, new information came to light that resulted in the scope of the investigation being expanded to include further allegations.

The Commission held a public inquiry, as part of the investigation, over 24 days between 18 June 2012 and 31 August 2012. Commissioner the Hon David Ipp AO QC presided at the public inquiry, at which 31 witnesses gave evidence. The report is available on the ICAC website at www.icac.nsw.gov.au.

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