



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

**JUSTICE HATCHER, PRESIDENT  
VICE PRESIDENT ASBURY  
DEPUTY PRESIDENT GRAYSON**

**C2023/3473**

**s.604 - Appeal of decisions**

**Appeal by Australian Workers' Union, The (002N)  
(C2023/3473)**

**Sydney**

**11.00 AM, TUESDAY, 29 AUGUST 2023**

PN1

JUSTICE HATCHER: I will take the appearances. Mr Ghosh, you appear for the appellant?

PN2

MR GHOSH: Yes, your Honour.

PN3

JUSTICE HATCHER: And, Mr Pollock, you appear for the respondent?

PN4

MR POLLOCK: I do, your Honour.

PN5

JUSTICE HATCHER: The parties are granted permission for legal representation. Mr Ghosh?

PN6

MR GHOSH: Your Honour, I understand my friend wishes to make an application to begin, so I might let him do that.

PN7

JUSTICE HATCHER: Yes.

PN8

MR POLLOCK: Your Honour and the Full Bench, you will have noted from the outline of submissions that were previously filed that there is left, in my submission, a real question around the utility of granting permission to appeal given the development of events. And of course your Honours will have seen some further correspondence that was sent through to the Commission late last week.

PN9

Perhaps by way of background the acquisition of the respondent by Altrad you will have seen in the materials that were filed postdated the making of the agreement. The agreement was initially made by Workforce Logistics with seven of its employees. That entity was subsequently acquired by AGC and subsequently still AGC and several of its subsidiaries, relevantly including Workforce Logistics, were acquired by Altrad substantially after the making of the agreement.

PN10

What followed from that, and you will have seen from the statement of Mr Sadler is that Altrad had no knowledge of or involvement with bargaining for this agreement, and of course it follows that they have no knowledge of the matters, the subject of the first ground of appeal. But of course in light of the uncertainty arising from the issues that are raised in the materials that the union has filed and the fresh evidence that it seeks to adduce Altrad made a decision that Workforce Logistics will not employ any employees moving forward, and then it would move to wind Workforce Logistics up.

PN11

You will have seen in our outline of submissions we said that by the time the appeal was heard and determined that Workforce Logistics will have transferred all of its employees to another entity; that it will apply to the Commission for orders under section 318 that the agreement not transfer with respect to those transferring employees; that it will have taken steps to deregister Workforce Logistics, and of course Altrad was prepared to give an undertaking to that effect.

PN12

Now, as things presently stand there are no employees who will be covered by the agreement remaining in Workforce Logistics employment. Twenty-six of the 28 former employees of Workforce Logistics, all of whom were casuals, have transferred from Workforce Logistics to another Altrad entity, Altrad APTS Pty Ltd. That's happened progressively over the period as I understand it, your Honour. The two remaining former employees, one elected not to take up employment with Altrad APTS, and is no longer an employee of Workforce Logistics. Again these are all casual employees. And the last employee, the last former employee, has not yet accepted an order with Altrad APTS. That employee as I am instructed is currently on holidays. So may well accept an offer, may not. A section 318 application has been filed.

PN13

JUSTICE HATCHER: When did they start to transfer?

PN14

MR POLLOCK: Bear with me just one moment, your Honour. The 14 August was when that processed commenced, your Honour.

PN15

JUSTICE HATCHER: How long have they been employed by Workforce Logistics?

PN16

MR POLLOCK: Your Honour, I would need to take some instructions on the full gamut of that cohort. I will ask my instructor to obtain those instructions, your Honour. As I had indicated a section 318 application has been filed. Of course you will see from the correspondence that was sent through late last week steps have been taken to wind up Workforce Logistics. Its current status is strike off action in progress. That is the entity still exists, but is in the process of being wound up.

PN17

We currently have a position where there are no employees currently covered by the agreement. Those with whom the EA might otherwise have transferred will be the subject of the application for section 318 orders. Now, of course we don't - I couldn't imagine we would apprehend any objection to those orders being made in circumstances where on my learned friend's case the agreement should not have been approved in the first place. And of course Workforce Logistics is in the process of being wound up, and so there would be no new employees able to be covered by that agreement in that it won't be able to be expressed to cover an employee of another entity.

PN18

So in those circumstances we have framed our submission of course on the basis that it would be difficult to see what utility there would be in dealing with an appeal on that basis, given that the subsequent relief sought really that the agreement no longer cover and apply to employees moving forward would be met by that process and those steps, (indistinct) undertaking provided where necessary.

PN19

JUSTICE HATCHER: Wouldn't there remain an issue about the entitlements of the 28 employees during whatever their period of employment was in circumstances where the appellant contends that the agreement didn't pass the BOOT?

PN20

MR POLLOCK: Well, your Honour, that would be a question that would properly be addressed in another place, in a court of (indistinct) jurisdiction. It wouldn't be a question - - -

PN21

JUSTICE HATCHER: No, no, it's a question of whether the agreement should have been approved such as to be the source of the entitlements. That's not a matter for another place at all.

PN22

MR POLLOCK: Well, your Honour, that is so. Perhaps I can approach it this way. Given where things have evolved, your Honour made some observations in a directions hearing last week to the effect that the parties might consider putting their heads together and determining a consent position for the disposition of appeal. You will have seen from the correspondence late last week that at the very least from my client's perspective they've gone away and taken those steps. Put frankly, your Honour, my client doesn't need this agreement and doesn't want the time, expense and controversy associated with this appeal and the application of this agreement moving forward.

PN23

It is content to consent to the appeal being allowed on ground 2 on the basis that the alleged error being that the Hydrocarbons Award was not considered for the purposes of the BOOT in circumstances where it should have been. My client is content to consent to that course, but that of course of itself would amount to an appealable error. Now, ordinarily that would not be dispositive, because that would be (indistinct) the hearing to determine whether or not in fact that would have made a difference on the BOOT. In the circumstances of course given that the agreement no longer applies to anyone there would be, in my submission, no need for a rehearing and my client would not press for one.

PN24

The advantage of that course of course is that that ground of appeal on that narrow basis could be dealt with based on the materials before the Commission presently. It would not require adducing any fresh evidence. It would not require calling upon compulsive orders to attend for several third parties, and would avoid

the cost of the remainder of a day's hearing, a day's hearing tomorrow, and for legal representatives for several others.

PN25

VICE PRESIDENT ASBURY: But, Mr Pollock, what if the agreement just scrapes through the BOOT? Assuming we have to consider the BOOT as the only issue and we follow your course what happens if the agreement actually scrapes through?

PN26

MR POLLOCK: Well, if it scrapes through, and of course we say that it would - -

PN27

JUSTICE HATCHER: If that's the position why would we even grant an extension of time, permission to appeal? The alleged concession is only academic because you say it passes the BOOT and is capable of approval.

PN28

MR POLLOCK: Well, that would go to a question of utility. We would accept - -

PN29

JUSTICE HATCHER: It's not a concession which would be dispositive of the appeal.

PN30

MR POLLOCK: Well, it's a concession that would demonstrate appealable error, whether or not in those circumstances you would be minded to grant permission to appeal. But the utility question of course I accept is a separate issue.

PN31

JUSTICE HATCHER: What's your application?

PN32

MR POLLOCK: Your Honour, it was simply to deal with the question of permission to appeal and utility at the outset in light of those circumstances.

PN33

JUSTICE HATCHER: The difficulty with that is that the appellant relies upon the evidentiary material to justify the extension of time and the application for permission, as well as the merits of appeal itself. That is we can't determine those preliminary questions without hearing the evidence, because they're the basis upon which the appellant says this appeal should be allowed out of time and permission should be granted. That is we have to hear the evidence in order to determine the appellant's case as to those matters.

PN34

MR POLLOCK: Your Honour, as far as it concerns the broader grounds, with respect to ground 1 of course I would accept that proposition. What I was flagging and (indistinct) proposed is a narrower road through that would allow the

Commission to deal with one ground of appeal. It would be unnecessary to decide the remaining ground and would obviate the need for a further hearing. But if your Honours are of a view that you're not in a position to deal with those questions without hearing all the evidence it's not apparent - - -

PN35

VICE PRESIDENT ASBURY: That wouldn't dispose of the issue, because potentially taking that course of action we could end up with an agreement that's approved that we can't do anything about because it scraped through the BOOT, and that's the only matter we decided to determine.

PN36

MR POLLOCK: I'm sorry, your Honour, I am not sure I follow that. If there was - - -

PN37

VICE PRESIDENT ASBURY: You say it passes the BOOT, and therefore what do we do with it at the end of the proceeding when the appellant is seeking that the decision to approve the agreement is quashed?

PN38

MR POLLOCK: Well, Vice President, in those circumstances it would be an appealable error, would it not, in the failure to consider a particular award which should have been considered as part of the BOOT assessment. Whether or not on rehearing that would result in, and the approval decision would be quashed in those circumstances, whether on rehearing it would ultimately pass or fail the BOOT is a question which in the ordinary course as I said wouldn't be dispositive, but in circumstances where we press for a rehearing given that there are no employees to be covered by this instrument.

PN39

JUSTICE HATCHER: That seems to be a different application. So your first application is what, for us to deal with extension of time, permission to appeal first?

PN40

MR POLLOCK: Yes, your Honour.

PN41

JUSTICE HATCHER: I mean we can do that technically, but I don't see how we avoid hearing the evidence which the AWU advances in support of its case for extension of time and permission to appeal, and if we deny (indistinct) to call that evidence then we're denying it procedural fairness, aren't we?

PN42

MR POLLOCK: Well, your Honour, I can't put it any higher than that. If my learned friend continues to, which I understand that he does, continue to press his case on the entirety of it, including ground 1, and if your Honours are not minded to deal with the appeal on that more limited basis then there's nothing more I can advance on that.

PN43

JUSTICE HATCHER: All right. Mr Ghosh, what do you have to say about this?

PN44

MR GHOSH: Your Honours, the appellant is of the view that the appeal should proceed. That ground 1 raises genuine issues that should be explored, and that it's not prepared to consent to the appeal being disposed of on the basis of a narrow concession with respect to ground 2.

PN45

JUSTICE HATCHER: We have determined that the appeal should proceed in accordance with the course previously determined, that is we will allow the AWU to present the case it wants to present in relation to the extension of time, permission to appeal and the merits of the appeal simultaneously and obviously we will hear the respondent's case in response to that. Mr Ghosh?

PN46

MR GHOSH: Thank you, your Honour. The appellant has put a bundle of materials before the court that is comprised of six tabs. The first tab is the appeal book.

PN47

JUSTICE HATCHER: Excuse me, you keep going. I'm just trying to find it.

PN48

MR GHOSH: Of course. The second tab is the statement of Mr Doug Heath filed on 11 July 2023, and the attachments to that statement. The third tab is a statement of Neil Sadler and the single attachment to that statement. The fourth tab comprises the documents produced in response to an original notice to produce to Mr Read and Mr Ruffino. The fifth tab is a contract of employment with Workforce Logistics which identifies the Workforce Logistics Enterprise Agreement as the relevant baseline agreement. And also in that tab is an offer of employment from Altrad which uses the Workforce Logistics agreement as the baseline agreement. And then in tab 6 there are additional documents produced by Mr Read yesterday in response to a further notice of production. Subject to any objection, and I understand there isn't one from the respondent, I propose to tender tabs 4, 5 and 6.

PN49

JUSTICE HATCHER: All right. Is there any objection to the admission of that material?

PN50

MR POLLOCK: Subject to any submissions that might be advanced on the relevance grounds, your Honour, I don't object to them being tendered.

**EXHIBIT #1 TAB 4 OF THE APPELLANT'S BUNDLE**

**EXHIBIT #2 TAB 5 OF THE APPELLANT'S BUNDLE**

**EXHIBIT #3 TAB 6 OF THE APPELLANT'S BUNDLE**

PN51

JUSTICE HATCHER: So what's the position with Mr Heath's statement, is he required for cross-examination?

PN52

MR POLLOCK: No, your Honour. Again there will be some submissions on relevance and weight of that, but he's not required for cross-examination.

PN53

JUSTICE HATCHER: You tender that statement?

PN54

MR GHOSH: Yes, your Honour.

PN55

JUSTICE HATCHER: Yes, all right.

**EXHIBIT #4 STATEMENT OF DOUG HEATH FILED 11/07/2023**

PN56

MR GHOSH: Thank you, your Honour. And if I might tender the attachment to the statement of Mr Sadler, which is a MyLeave record of the company from April 2023.

PN57

JUSTICE HATCHER: Where do we find that?

PN58

MR GHOSH: That is found at page 165 of the bundle that's been handed up. Sorry, 164, I beg your pardon.

PN59

JUSTICE HATCHER: Is there any objection?

PN60

MR POLLOCK: No, your Honour.

**EXHIBIT #5 MYLEAVE CERTIFICATE OF REGISTRATION FOR WORKFORCE LOGISTICS PTY LTD**

PN61

MR GHOSH: In respect of the witnesses that have been ordered to attend today there are two brief housekeeping matters that I'd like to deal with. The first is I'd like an order for witnesses out of court prior to their giving evidence.

PN62

JUSTICE HATCHER: Yes.

PN63

MR GHOSH: And then the second is that I would seek the leave of this tribunal to the extent that it's necessary to ask both open and closed questions of these



witnesses on the basis that they have not properly considered to be from the appellant's side of the fence, to use a colloquialism.

PN64

JUSTICE HATCHER: All right. So as to the first I am told that - so who's the first witness?

PN65

MR GHOSH: Mr Read.

PN66

JUSTICE HATCHER: I think that's Mr Read in court, is it?

PN67

MR POLLOCK: No, that's Mr White.

PN68

MR GHOSH: No, I understand that's the counsel for the - - -

PN69

MR POLLOCK: And Mr Raftos. Yes.

PN70

MR GHOSH: Yes.

PN71

JUSTICE HATCHER: I see. Sometimes the witnesses are all outside, so will be called in one by one. As to the second application is that opposed, Mr Pollock?

PN72

MR POLLOCK: Your Honour, subject to a sensible judgment being exercised I don't oppose it given the circumstances.

PN73

JUSTICE HATCHER: All right. So shall we call in Mr Read?

PN74

MR GHOSH: Yes, please, your Honour.

PN75

JUSTICE HATCHER: Mr Raftos, I note that you appear as counsel for Mr Read; is that correct?

PN76

MR RAFTOS: That is correct, your Honour, and for Mr Ruffino today. I'm seeking leave to do so.

PN77

JUSTICE HATCHER: All right. Mr Raftos, can I ask you just to try and move that microphone and get closer so that we can hear you better.

PN78

MR RAFTOS: Can you hear me now, your Honour?

PN79

JUSTICE HATCHER: Yes, that's a little better, thank you. What's the purpose of your appearance?

PN80

MR RAFTOS: Your Honour, my clients are obviously both unrepresentative, and at the moment while the parties to this matter are represented, so it's a question of fairness to ensure appropriate line of questioning and also re-examination if need be. My role is limited, but it's essentially to ensure appropriate line of questioning and re-examination if required.

PN81

JUSTICE HATCHER: Mr Ghosh, is there any opposition to Mr Raftos' appearance?

PN82

MR GHOSH: No, your Honour.

PN83

JUSTICE HATCHER: All right. We will allow you to appear for those two witnesses, Mr Raftos, and we grant you permission to appear as a lawyer.

PN84

MR RAFTOS: Thank you, your Honour.

PN85

JUSTICE HATCHER: All right. So we will call in Mr Read first. Can I ask the court officer in Perth to bring Mr Read into the witness box, please.

PN86

THE ASSOCIATE: Yes, your Honour, thank you.

PN87

JUSTICE HATCHER: And just to explain to the parties, the camera in Perth is voice activated, so we're hoping that it works when Mr Read says something. All right. So can we get Mr Read's details for the record, please.

PN88

THE ASSOCIATE: Can you please state your full name and address.

PN89

MR READ: Blake Andrew Read, (address supplied).

**<BLAKE ANDREW READ, AFFIRMED**

**[11.30 AM]**

**EXAMINATION-IN-CHIEF BY MR GHOSH**

**[11.30 AM]**

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN90

JUSTICE HATCHER: All right, Mr Ghosh.

PN91

MR GHOSH: Thank you. Mr Read, can you hear me?---I can, yes.

PN92

Thank you. Do you have a bundle of documents in a lever arch file sitting at the table that you're at?---Yes, I do.

PN93

At certain points during my questions to you I may go to some of the documents within that file, and the page references I will take you to are at the bottom of each page in the middle of those documents?---Okay. Sure.

PN94

Mr Read, you're a trained chartered accountant?---Not a chartered accountant, CPA, yes.

PN95

What's the difference?---Just different registration bodies. Chartered accountants are one body. Certified Practicing Accountants are registered under a different body.

PN96

Thank you. And you've worked as an accountant for WesTrac?---Yes.

PN97

And that was from 2002 to 2004?---Yes.

PN98

A finance manager for Harmony Gold?---Correct.

PN99

And that was from October 2004 to August 2006?---Yes.

PN100

A commercial sales manager for National Hire, a Cat rental store?---Yes.

PN101

And that was from October 2006 to October 2008?---Yes.

PN102

And a commercial manager at Coates Hire from October 2008 to December 2009?---Yes.

PN103

And a commercial manager at the Skilled Group from June 2009 to May 2013?---Yes, it sounds right.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN104

Give or take is fine in terms of the dates, Mr Read?---Yes, around about, yes.

PN105

Thank you. And a general manager at the Skilled Group from May 2013 to August 2017?---Yes.

PN106

And you're an executive consultant for BlueMount Capital, or were from June 2020 to October 2022?---Yes.

PN107

And you're a director of a number of companies?---Yes.

PN108

How many companies are you a director of?---I have my own consulting company. Currently two - three. Two registered I believe, yes.

PN109

Okay. And what's the name of your consulting company?---Well, it's under a trust. It's Black Tool Pty Ltd, and it's the trust for my - for the Read Family Trust is the actual trading entity.

PN110

So you're in general aware of the responsibilities of a director under the Corporations Act?---Yes.

PN111

And you were the commercial manager for Diablo - or you are the commercial manager for Diablo Industrial Services, and you started there around April 2019?---No, that's not correct.

PN112

That's not correct?---No.

PN113

You're not the commercial manager at Diablo Industrial Services?---No, I consult into Diablo Industrial Services.

PN114

Okay. So you're an independent contractor?---Correct.

PN115

May I ask you to turn in that bundle to page 111. Are you there, Mr Read?---Yes. Sorry, I do have that, yes.

PN116

That's a picture of you, isn't it?---It is.

PN117

And that's your LinkedIn profile?---Yes, it is.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN118

Now, can I ask you to look at page 112?---Yes.

PN119

Now may I ask you to look at the third entry down, which states, 'Commercial manager Diablo Industrial Services Pty Ltd contract'?---Yes.

PN120

Is that a correct description with the qualification that you were doing that as an independent contractor?---Well, I guess from a LinkedIn profile we look at the customers in terms of the assistance that I'm providing Diablo was in a commercial context. My relationship there was as a consultant. It shows there as contract, but my relationship there was a consultant. So what we have on LinkedIn was obviously to show from a market position point of view that there was some commercial capability within that business.

PN121

Thank you, Mr Read. And you are the chief financial officer and commercial director of West Coast Site Services from December 2021 to the present?---Yes. I'm sorry, not commercial director, no. Things changed within that business. So, yes, my relationship is not a paid relationship within that entity, or an employee relationship.

PN122

Okay. And you were the managing director of KI Health Services?---Still am.

PN123

Still am. And do you have any other occupations or roles that you currently fulfil?---No. I'm a general consultant, so I do get little bits of work from time to time.

PN124

Are you based in Perth?---Yes.

PN125

And the roles that we have been through were any of them based interstate?---No.

PN126

Were you in Perth during August and September last year?---Yes.

PN127

What does Diablo Industrial Services do as a company?---They work on civil construction road projects doing barrier - barrier systems, temporary barrier systems.

PN128

What's temporary barrier systems?---During road works there are lane closures. There are - you will see concrete and metal barriers as you drive along the road which protect workers on the other side of those barriers.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN129

And what was your role consulting to Diablo Industrial Services?---Yes, general. So I would look after any tenders or commercial contracts that the owner wanted me to look over, if he needed to get some responses over on any commercial matters, and general assistance in terms of - he did have an accountant, but I would oversee and assist the owner in terms of his financial set up and any other potential risk matters.

PN130

And who's the owner?---Vince Ruffino.

PN131

Okay. And you were paid for these services?---Yes, I was.

PN132

Under a written contract, or was it an oral agreement?---No, just – no written – no written agreement.

PN133

Okay. How did you charge for the services then?---So depending on cash flow, obviously with that business, because it very much is an up and down project business, so for some scopes of work, I may have produced work and then allowed it to be paid over a period of time or a retainer in – at some – at some durations, over the course of that time with Diablo.

PN134

And do you know how many other people work for Diablo Industrial Services?---It has - it's a casual work – casual and full time workforce, so at any one time, it could be maybe up to a dozen.

PN135

Okay. And do they work out of the premises at Unit 2/1 Aitken Way in Kewdale?---No, they're very much a mobile workforce.

PN136

Okay. So at those premises, they wouldn't necessarily be the workforce coming into work in an ordinary office place then?---No.

PN137

Okay. Now, does Diablo Industrial Services do anything other than barrier contemporary barriers?---No.

PN138

Okay. And did you report to Mr Ruffino at Diablo Industrial Services?---I don't report to him. I would work with various staff amongst Diablo. Operations Manager, other roles that I could work with so it wasn't necessarily a reporting structure like that.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN139

Okay. Well, how would you describe your attraction to Ms Ruffino then, if not reporting?---Well, I mean, when you say reporting by definition is that – it's not as an employer/employee relationship. I was funded by the – or paid by the business. But I would take sometimes direction from other employees but I guess ultimate responsibility or my activities would be overseen or approved or by Vince being managing director.

PN140

And did you know Mr Ruffino prior to starting work at Diablo?---Yes, I did.

PN141

How long have you known him?---I met Vince whilst working at school back in 2009/10, so 13, 14 years.

PN142

Okay, now Diablo Industrial Services, were you involved in the recruitment of personnel at all?---No.

PN143

Were you involved in screening personnel?---No, only from an administration point of view. I had a couple of lower level administrators assisting – assisting the business over the course of time which I would – would have a direct hand in, given the nature of what they were doing, I would ensure that they were the right person for the job.

PN144

So you would - - -?---Or have some input.

PN145

So you in effect, would you ever oversee their work or give feedback on their work?---No, not really. It was only if they – some administration tasks that were better done in-house by staff employees, rather than external consultant which is normal course for low level work.

PN146

Now, you set up Workforce Logistics on 19 August 2022?---Yes.

PN147

Whose idea was it to set up Workforce Logistics?---Yes, that was mine.

PN148

Okay. Why did you set it up?---There was some confidence from me that there was some potential project on-hire labour work through the network that I thought I could secure or bid for. So that was my intent.

PN149

And what was that potential work? Was it specific or was it just - - -?---Well, broadly, it was in the mining construction maintenance phase.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN150

And from a location perspective, was it in Perth CBD? Was it Perth outer suburbs? Was it up north?---That work predominantly would be site – site-based but, yes, I wasn't discounting metropolitan work, should it be there.

PN151

Now, the company's principal place of business was listed as Unit 2/1 Aitken Way, Kewdale?---Yes, correct.

PN152

Is that right? And that was Diablo's premises as well?---Yes, it was.

PN153

Did Workforce Logistics lease those premises from Diablo?---No. There was no formal lease arrangement.

PN154

So how did that come to be the base for Workforce Logistics?---Well, I asked – I asked Vince. There was – there was available space in that premises and he was – he was kind enough to allow me to utilise that space.

PN155

Sorry, space for what?---So, in terms of having an office space and a workshop space out the back that was underutilised, so that allowed for me to use the office with the employees, but also to utilise the back space should I – should I require it.

PN156

JUSTICE HATCHER: Had you ever engaged in work of this nature before, that is going into the labour hire business?---Yes, I have.

PN157

All right. Thank you.

PN158

MR GHOSH: Where had you engaged in that work, Mr Read?---In the labour hire business, as you had noted, a large part of my career was with – with the Skilled Group which is known for its on-hire labour presence in the Australian market. Coming from a commercial role and general management role, obviously had a lot to do with – in that industry.

PN159

Now, you've just mentioned that the employees were based in the office. Or rather, you had office space for the employees. Were the employees based in the office during the term of their employment?---Sometimes, yes.

PN160

What does that – sorry, if you could elaborate on sometime in that sentence?---Were they based? I mean, that was the basis of the premises, yes. But the - - -

\*\*\* BLAKE ANDREW READ

XN MR GHOSH



PN161

So they came in every day or they came in occasionally?---Not – not necessarily did they have to be there every day. There was a lot of structuring going on, in terms of assistance with policy writing et cetera, so it wasn't mandated that they needed to attend Aitken – Aitken Way. It was a growing concern of another – of another business, so I wasn't going to – to push – to push it and have – you know – too many people in the office when it's somebody else's place of business as well.

PN162

Who were Workforce Logistics clients?---We never ended up trading.

PN163

Did you register for payroll tax?---We would never – we hadn't hit the banding of being required to pay payroll tax.

PN164

How about GST?---No, I don't – I can't recall, but I don't believe I – I did. GST is a relatively easy process to – to tick the box and become GST registered, once you make the threshold of invoicing externally and meet the requirements. Didn't need to do it at that time.

PN165

Was that because you – the company while you were there didn't engage in any business?---Yes, well, I mean, that thought process is that once the – the works that we were looking to position ourselves for would be successful, then yes, by compliance they – I would – that once we'd begin trading, I would register for the GST.

PN166

JUSTICE HATCHER: Mr Ghosh, I don't want to interfere, but are you going to ask questions about the circumstances of the engagement of the employees?

PN167

MR GHOSH: I will, yes, your Honour, but please don't let me stop Your Honour asking the questions that you would like to ask.

PN168

JUSTICE HATCHER: No, you go ahead.

PN169

MR GHOSH: All right. May I ask about the works you were seeking to position yourself for?---M'mm.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN170

And you've given a fairly general answer earlier, but were there any specific jobs that Workforce Logistics tendered for?---Yes, so there was a couple. So in terms of some on site maintenance through a subcontractor onto some large iron ore miners that we thought would become available in engineering and maintenance

space that would be outsourced to the on hire labour companies, such as Workforce Logistics.

PN171

And which were those companies?---Well, BHP was one of those. My experience goes across all the major miners so, looked across broad opportunities.

PN172

Now, do you know what MyLeave is?---I do.

PN173

You didn't register for MyLeave, though, did you?---No.

PN174

Why was that?---My understand of MyLeave and I do have an understanding, I engage with them very much so in my old role at Skilled. And was quite at the time back in – during my time at Skilled had read through the MyLeave and the Act et cetera, or what governed MyLeave in terms of what constituted construction. And the intent is if we had picked up construction based work that met with MyLeave coverage, we would have registered for MyLeave. But it wasn't necessary. I believed it wasn't necessary at that time.

PN175

Mr Read, if I might ask you to turn to page 205 in the bundle that you have?---Yes.

PN176

Do you recognise that document?---I do.

PN177

Did you draft that document?---Yes, yes, I did. I mean, I've had many of these templates and documents that I've held in my consulting roles over time. I put that together, yes.

PN178

Okay. So you're familiar with its content?---Yes.

PN179

Did you work off a - - -?---Well, well, from at the time of writing. Obviously – obviously depending on the actual – the actual scopes of work that we picked up and how the company evolved, no doubt there would have been reiterations in tailoring – tailoring that. So, yes.

PN180

Was there a precedent you started from?---Look, so I have – I have decades of documents in terms of ensuring that we're compliant or at least have the right policies and procedures in place, so I would have started with a base – a base document of some sort.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN181

Do you remember which document that was, or the source of that document it was?---No, I don't.

PN182

Okay. May I ask you to turn to page 219, please? Do you see that document there?---Yes, I do.

PN183

Do you recognise that?---Well, vaguely.

PN184

Okay. Is it a document that you drafted?---It would have been from my templates, yes.

PN185

Okay. And do you remember the template you used?---Sorry? Repeat?

PN186

Sorry, do you remember the template that you used? The source of it?---Well, I don't remember the template I used, no. It would have been – it would have been bringing multiple documents together to – to try and put this together. Remembering this was work in progress during the infancy of setting up the business.

PN187

Now, may I ask you very briefly to turn to page 232?---Yes.

PN188

Which is a personal information form?---Yes.

PN189

And may I draw your attention to the footer to that form which indicates it was approved by you, but it was issued on 1 May 2022?---Yes.

PN190

According to its face. Now, that's some three or four months before Workforce Logistics is set up?---Yes.

PN191

This is obviously taken from another document, I'm assuming?---Yes, yes. I'll – I'll – it would be taken from – from another document. And say these were all work in progress, so I – I've used documents over decades in terms of how I compile these things rather – rather than starting from scratch, so that would have been an oversight in terms of getting the dates right. And updating the footer.

PN192

Now, in response to an earlier question, you said that one of the things that your employees were doing offsite was assisting you with policy writing. Did they assist you with any of the three documents that I've just shown you?---No.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN193

No, then what policy documents were they assisting with?---Well, in terms of what they were – what they were doing, it was – mainly more proceed – more procedural. They would have - they were looking for future employees for me, in terms of what I require in building a team in that area. Advising me on some of the risk matters in terms of safety procedures I would have to have in place in certain areas of work, to give me coverage. Some of those areas, I was taking advice on from people who had been on the ground, in terms of some - in terms of director's responsibilities in terms of loads and restraints, and there had been a number of changes in Safety Acts over the years. So they were advising in terms of things like Safe Work Method statements that we'd need to use on sites, as well as some recruitment functions in terms of people that they could identify within the market to join Workforce Logistics, should we be successful in work.

PN194

Were you responsible for recruiting the employees of Workforce Logistics?---Yes, I was.

PN195

And you've had some past experience with recruiting in your previous roles?---Yes.

PN196

So when you commence a recruiting process, you would start with some sort of advertisement or tender, or notice of offer, yes?---Not necessarily, depending on how broad I was trying to cast the net or the scope of the requirement, in terms of employees that I was seeking.

PN197

And you would normally review applications if you were responsible for recruiting and selection?---I would normally, yes.

PN198

Okay. And you would then evaluate the person based on the application. In your industry, would you conduct an interview?---Depending on the role, but I mean, normal practice is to have an interview if you had doubts about either trying to shortlist a group of candidates, but if people come on recommendation and the CV looks all right, or their history looks okay, then, you know, that know, that recruitment - the interview process, I guess, is probably optional based on the level of confidence you have in the person.

PN199

And in the ordinary course during your previous roles, what's your level of confidence in the person based on?---Sorry, can you repeat the question.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN200

Sorry. So you said you would hire people based on your level of confidence in the absence of an interview. What's your level of confidence based on? What comprises that confidence?---Okay. So the calibre of the referral - I mean, an

interview can be formal or informal. Many employees, I would have recruited over a cup of coffee and a chat. So depending on the role, depending on whether there was somebody who was a known qty. I mean, I've recruited people that just come from within the network with no need for formal interviews.

PN201

So what's the network?---My network? I guess my working history of 25 years, or in - across mining industrials, labour. I guess as you get older, you realise you've got a lot of people in the network that you can trust and rely upon.

PN202

Now, you employed six people at Workforce Logistics?---Yes.

PN203

One was Steven Biddle?---Yes.

PN204

One was Paul Hudston, one was Daniel Walters. Is that right?---Yes, correct, sorry.

PN205

Mark Read?---Yes.

PN206

Vince Ruffino?---Yes.

PN207

And Alex Hudston?---Correct.

PN208

And you've disclosed, as part of your disclosure in this process, contracts of employment with each of those individuals?---Yes.

PN209

Were there any side deals that you had done with those individuals?---No.

PN210

Any collateral agreements?---No.

PN211

Any changes to these contracts that you haven't disclosed?---No.

PN212

May I ask you, in respect of Mr Biddle, what were the steps you undertook to engage him?---He was referred to me from Paul Hudston.

PN213

Okay. Is that all?---Yes. Yes, he was a referral.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN214

Okay. So what steps - once Mr Hudston told you that this person, or referred him to you, what steps did you take in relation to Mr Biddle, specifically?---In terms of reviewing his working history, his experience and his qualifications.

PN215

Was there an interview?---No formal interview, no.

PN216

Do you know what a white card is, Mr Read?---Yes, I do.

PN217

Did you check Mr Biddle's white card?---Unsure of that. Can't recall.

PN218

What was Mr Biddle's work history?---From memory, he had a couple of roles, but yes, mainly scaffolding and rigging over, from what I saw, was - I can't recall. Seven, eight, nine, 10 years.

PN219

And you'd never met Mr Biddle before?---At that time, no.

PN220

JUSTICE HATCHER: So why did you engage him? That is, did you have scaffolding and rigging work for him to perform?---Sorry, Mr Pres. Sorry, can you repeat that?

PN221

Yes. Mr Biddle - why did you engage Mr Biddle? That is, you said he was a scaffolding and rigger; did you have any scaffolding and rigging work for him to perform?---That was going to be a large part of the context and the work that we were chasing. So yes, wanted to have a solid (indistinct) that we could successfully bid and perform the work.

PN222

But at the time you engaged him, you had no such work for him to perform?---No, other than preparing the business in terms of history, experience, building the team, utilising Steven's network as well to position him to be a member on-site, once we've performed, so we could perform, you know, the necessary skills that were in line with the work that we were chasing.

PN223

And what, he was unemployed at the time you engaged him, was he?---From my understanding.

PN224

All right, thank you.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN225

MR GHOSH: Did Mr Biddle ever attend the office in Kewdale?---Steven was assisting Paul, so there was probably no need for Steven to come in. I can't recall whether he had actually spent some time inside the Aitken Way property.

PN226

Do you recall any duties that Mr Biddle performed?---Do I recall any - - -

PN227

Any duties that Mr Biddle performed for Workforce Logistics?---He was essentially coming through from Paul, so he was working alongside Paul to allow us to build the team and make sure that we had all the process in place.

PN228

But no actual work?---No.

PN229

And may I ask you - - -

PN230

MR POLLOCK: I'm sorry, perhaps the witness can clarify - the question be clarified to identify what we mean by 'actual work'. Is it intended to mean actual construction work, or - - -

PN231

JUSTICE HATCHER: It's Mr Biddle - did Mr Biddle ever actually perform any work for Workforce Logistics?---He was not doing - no, he did perform work; he did not perform scaffolding work, sorry. I misinterpreted the question.

PN232

Is there any document that he produced, that he helped prepare?---I don't have it here, no. So we were doing recruitment functions. Say there was work in progress, in terms of Safe Work Method statement documents in terms of compliance matters to assist me, but I strongly took a guiding hand from Paul on those matters.

PN233

So are there any Safe Work documents in existence that he - - -?---It was some time ago. I mean, I do have - there were documents being produced at the time, yes. I'm not sure if there's any in here, but yes. There was obviously a lot of work that goes into setting up an organisation that will allow you to successfully bid, and win projects with the right team behind you. That's what the investment in Workforce Logistics was all about.

PN234

Thank you.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN235

MR GHOSH: And if Mr Biddle didn't come into the office, then those were exchanged between you and him by email, those documents you referred to?---Well, not necessarily by email. There's graphs, there's printouts, there's - I

mean, as I say, there's a lot that was going on in that business over - from the startup of registering the entity from my side, through to getting it prepared to go to - to win the work. So yes, we put a lot of effort into procedural and compliance-based matters.

PN236

I'm not sure if you've answered that question. Was there ever an exchange of emails, concerning the work that Mr Biddle had done for the company?---Yes, I'm - I'm not sure.

PN237

I mean, you're not suggesting he posted in the documents, are you?---Yes, I'm not sure what's the evidence in this trial. In terms of the email trail going back to September 2022, what was done around the table, what was done at offsite meetings, sifting through documents, giving lists of checklists in terms of what was going to be required, I have a very thorough checklist that I've worked through about what is required from the start of a business to then moving onto a site. There is a lot of work that goes into that. I mean, my stile would have been to - I'm pretty hands-on with that, so a lot of it would have been either around the table, offsite or onsite.

PN238

My I ask you what you mean by 'offsite or onsite'?---Well, I mean I - as I had commenced with in terms of the Aitken Way premises, there was only so many desks and tables. Me, being a consultant, I work across - I have other places that I can - it can be anything from a coffee shop to a temporary office of somebody else I may be able to utilise their workspace, depending on where people's physical locations are at the time.

PN239

So where did you meet Mr Biddle?---Yes, well, that was offsite, before.

PN240

Yes, but where?---I don't - yes, I don't recall.

PN241

Okay.

PN242

JUSTICE HATCHER: How many times did you ever meet him?---Only the once.

PN243

MR GHOSH: Now, I'm asking about the recruitment process in relation to Mr Daniel Walters. How did he apply for the job?---I knew Daniel and I knew of his skillsets.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN244

How did you know Daniel?---Daniel was part of a business that I had been invited into by his then-owner, to look at any potential sale opportunities for his



business. Daniel was the general manager there at the time and had moved on from that business.

PN245

So Daniel was the general manager?---But - no, I'm not sure of his title. He was managing the business and its onsite works. Yes, I can't recall his actual title, but he was leading up their onsite maintenance division of that business.

PN246

And what's the name of the owner of that business? Do you remember?---Yes, I do. It was Ron. I can't recall his last name. Ron? Ronald, or Ron.

PN247

And when did Daniel Walters last work as a mechanical fitter?---He's consistently out on sites, from my understanding, and - yes, he's a - he leads teams, he's onsite, he works in Perth as well. So from my discussions with Daniel and knowing his work history, he has applied his trade for the better part of 20 years.

PN248

Do you at all think it was odd that Mr Walters, who was managing part of another business, would apply for a casual mechanical fitting job for your company?---No, not at all. Daniel had, at the time, looked to get into construction in his own right. In my understanding, had another potential business partner that wasn't working out. He was pulling out of the one job that he had done through that entity, was looking to restructure. But yes, was looking for work at that time as the business that he was trying to get off the ground was - yes, was not looking good at all at that time.

PN249

Did you interview Daniel?---Did I ever - - -

PN250

Did you interview Daniel?---Did I interview Daniel? Yes, like, we - yes. Not - as I say, not in a formal - no. I got to learn what Daniel was capable of, and I valued Daniel was being a potential employee for my business. I got to see that whilst dealing with Ron's affairs, and when he became available outside of that business, yes, I - of course I'm going to approach somebody with that calibre and those capabilities.

PN251

And, sorry, what was Ron's second name?---I can't recall. Sorry.

PN252

What was the name of the business?---WA Site Services, I believe.

PN253

Now, in respect of Mark Read - - -?---Yes.

PN254

Is he a relation of yours?---Yes, he's my brother.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN255

Okay. And so what was the selection or recruitment process for him - for Mr Read - for Mr Mark - - -?---Yes. Well, obviously, yes, yes. I - look, I know his work history over 30 years, and I knew what he was looking for. We had had multiple discussions around him coming to work for me.

PN256

And what is that work history?---He's an electrician by trade, worked in industrial businesses through Perth, mine site electrical experience, maintenance and construction, electrical and site. So I'd value having him on the team absolutely, but I can build a electrical workforce around him. He definitely has the capabilities.

PN257

You said he worked for industrial businesses. What did he do for those businesses?---Electrical work, maintenance, generators, power, mining maintenance, camp, camp maintenance, camp construction.

PN258

And he was not employed as an electrician when he applied to work for you?---Yes, he was.

PN259

Sorry. He had another job as an electrician when he applied to work with you?---No, no. He - no. He was going to work for Workforce Logistics.

PN260

Okay. During the period that he was employed for Workforce Logistics, did he work for any other companies?---He was working across - during the time?

PN261

Yes?---No.

PN262

So in the term of his employment, he didn't do it - he wasn't working for anyone else?---Not during the term of his employment with Workforce Logistics.

PN263

And what did - what tasks did he do for Workforce Logistics?---Again, we were looking to - looking at what it would take to potentially get a team together. We - in terms of having potentially HV - HVAC and HV work inside the on-hire business. Look, I also had Mark perform some work on some plant and equipment out the back that was also, I guess, in terms of assistance of some of those experiences there, he had on some various equipment like saws, compressors, et cetera, that were out the back. He was working on those as well as tapping into his network on some other electrical resources that we would take with us as an electrical project team should the opportunity be successful.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN264

Saws and compressors out the back, who owned those pieces of equipment?---That would have been owned by Diablo.

PN265

And did you - and you didn't invoice Diablo for those - for that work, did you?---No. I didn't think it right to considering I was utilising the office space. It was the right thing to do.

PN266

Can you estimate in days and hours how long Mark Read worked on fixing or dealing with equipment in the workshop?---Look, it was a balance. There was lots going on in terms of recruitment functions, in terms of advising me on - in terms of the - how we'd need to structure ourselves from an OHS and a - point of view in the on-hire electrical space. So it was a balance. In terms of percentages, I wouldn't be able to weigh it up. It was a mixture.

PN267

So the answer is you can't estimate it?---Fifty per cent, maybe.

PN268

Sorry. He spent 50 per cent of his time under the contract?

PN269

MR GIORDANO: I think I have an issue with this line of questioning. It's clear from the witness that he can't give a specific estimate, and I don't know what value asking the witness to simply give us a guess - he clearly can't tell us specifically the amounts of time.

PN270

MR GHOSH: Well, that's not the question that I asked. I repeated the question about giving an estimate. He's giving an estimate, and an estimate is inherently - the word estimate - - -

PN271

WITNESS: Well, I'll take - in terms of the - I don't know from a percentage point of view. There was lots going on. I would be offsite a lot obviously positioning the business for success. So I was quite busy at the time as well. So in terms of what was done between the starting hours and at the end. I mean, there was certain things I was being requested of, how long it took to do paperwork-based matters, recruitment functions versus assisting out the back with his electrical trade with that balance is really unknown. So I'll take back the 50 per cent because I don't know - I know it was balance between the two.

PN272

JUSTICE HATCHER: So I'm a bit confused. So when you said assisting out the back with his electrical trade, what do you mean by that?---That was the - assisting in completing - fixing some of the machinery that was out the back that was broken. I had offered the services of Mark, essentially, to - he had the necessary skills and, yes, it was useful for his skills to - - -

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN273

He was - so you're saying he was doing electrical work for Diablo for free?---Well, I - yes, there was some things that he helped out on there. Yes. So if it was required, and we had been asked, then I would offer his hand to help.

PN274

So just answer my question. Is it correct that he was doing electrical work for Diablo for free?---Yes.

PN275

Thank you.

PN276

MR GHOSH: May I ask you about Alex Hudston? How did he apply for the job at Workforce Logistics?---Yes. He was a referral through Paul.

PN277

And I'm just looking at the last names. Is he related to Paul?---Yes, I believe so.

PN278

Did you meet with Alex Hudston?---No.

PN279

How was - - -?---He was - - -

PN280

How was he related to Paul?---I believe it's his nephew.

PN281

What was Alex Hudston's work history?---Alex had been performing rigging duties, scaffold, and I believe also he was also growing his experience in crane operations which would have been of assistance to the business as well over from what I saw as about a decade of experience.

PN282

Did Mr Hudston have a white card?---I'm unsure of that.

PN283

What did Mr Hudston do - this is Alex Hudston now - for Workforce Logistics?---Yes. So he was working alongside Paul doing the same functions as I had mentioned that I'd asked Paul to perform for the business. He'd referred the team members and was working with them to fulfil those scopes of duties that I'd asked him to do.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN284

JUSTICE HATCHER: Sorry. What's the scope of duties?---That was putting together - providing compliance-based protection for me in terms of what that looks like in a scaffolding/rigging space, looking at building teams. It would have been looking for material numbers of employees in a very quick spade of time should I be successful. They were having conversations advising on market pay

rates to me, who was becoming available. There's that documentation like Safe Work Method Statements. So advising me as to give me confidence that the business would successfully perform the works that I was looking to take on under Workforce Logistics.

PN285

So did you ever physically meet Alex Hudston?---No.

PN286

Did you ever exchange emails with him?--- Yes.

PN287

Thank you.

PN288

MR GHOSH: Alex Hudston was working on other sites during this period of employment, though, wasn't he?---I'm unsure of that.

PN289

Do you know what he was doing during the period you had him employed?---Yes. I just mentioned what he was doing with Paul. Yes.

PN290

Now, may I ask you about Paul Hudston? How long have you known him for?---I met him roughly - maybe a year or two before Workforce Logistics was registered.

PN291

Okay. How did you meet him?---It would have been brief encounters through Mark.

PN292

So that's Mark Hudston?---Correct.

PN293

Can you give any details of those brief encounters?---Look, very informal. Knew a bit about his work history, what he did, but - yes. Pretty informal meetings.

PN294

How many meetings?---I would have met him at - a couple times over the course of the 12 or 18 months, or it could be going back a couple of years. I - yes.

PN295

So that's two meetings, and were they alone, or were they - sorry. Let me ask the question one at a time. So that's two meetings. You said a couple of meeting?---Well, I met Paul a couple of times, yes.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN296

Okay?---And that made - that made - as I say, they were very, very informal around a group of people maybe over a coffee or a beer or - don't absolutely recall where and - there's no particular purpose to those meetings.

PN297

So they were social meetings?---Yes.

PN298

Did you ever meet with him alone?---No. I mean, I - well, I did when looking at Workforce Logistics and what role Paul could play in that business.

PN299

Sorry. Let me go back a step. Before the Workforce Logistics process - - -?---No.

PN300

- - - did you ever meet him alone?---No, I didn't.

PN301

So always in company?---Was he companied?

PN302

Always - you always met him with other people?---Yes.

PN303

And was it always with Mark Hudston?---No, not necessarily.

PN304

Well, there's two - - -?---I - it could have been two, could have been three. I mean, I knew Paul. I'd seen him around the place, maybe even saw him in passing on the street and said g'day. I'm not considering myself a friend of Paul's that we would catch up one-on-one, but I know who Paul is and met with him a few times either briefly or longer. So there would have been times where I may have seen Paul in the street without Mark.

PN305

How long have you known Mark Hudston?---Ten to 13 years, somewhere around - yes, let's - probably 10 years.

PN306

And what does Mark do?---Mark is a - is within his own business doing HR consulting.

PN307

Which business is that?---Mapien.

PN308

I'm sorry, I didn't hear that?---Mapien.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN309

Mapien?---Is it Mapien? I believe. It changed - that business changed names a couple of times from - over the journey from when I first had met Mark from my school days.

PN310

Now, you've said in relation to other employees that you engaged, that you engaged them on the recommendation of Paul Hudston?---Paul was recommended to me. I mean, we'd had a conversation. I knew of Paul's work history. It would have been over a conversation with Mark around his availability and a catchup, yes.

PN311

So the recommendation in this case, was from Mark Hudston?---Well, look, it could well have been a question from me around his availability. I was the one seeking what I needed inside Workforce Logistics.

PN312

And Mark Hudston assisted you with that?---Yes, in that reconnection, I would have asked. I wouldn't - I was not a - wouldn't consider a friend. I would have had the conversation with Mark and reconnected.

PN313

So how many conversations did you have with Mark Hudston about the recruitment of employees for Workplace Logistics?---Well, I mean outside of that chat about Paul, very few if the one.

PN314

How long was that chat?---As long as it probably took for me to ask him whether Paul was available. It wouldn't have gone into too much detail. I had a pretty clear thought about what I was going to need with inside the organisation so it would have been very - extremely brief.

PN315

So based on a very brief conversation with Mark Hudston you were introduced to Paul Hudston or you were told that Paul Hudston was available, sorry, and based on brief encounters, informal encounters maybe two or three, over a coffee or a beer or meeting him in the street, you were prepared to take Paul Hudston's recommendations for employees without going through the more usual recruitment steps, is that right?---Yes. I knew Paul's work history. I knew the projects that he'd worked on. I knew the teams that he'd worked around. I mean, that's my modus in the way that I've conducted my businesses and even in general management roles that I look at peoples capability and work history and I put - and I take people on recommendation and as somebody who's done this for 20-odd years in terms of recruiting people, I look at CVs, I discuss work histories and I put a lot of weight into people's recommendations and people that I know have got the work experience. You can have CVs and interviews that don't pass the test over on reflection, so I say it goes on experience around who I recruit and how they're referred to myself.

\*\*\*

BLAKE ANDREW READ

XN MR GHOSH

PN316

But the real recommendation is coming from Mark Hudston, isn't it? He's the person you had the relationship with?---Well, I get the endorsement or the secondary affirmation from Mark. I would have been the one who was looking for somebody senior who has good networks on site and good experience so, you know, through those encounters that I'd had with him knowing that the work he'd been on, I knew enough about him to then raise that with Mark to pose the question. So yes, the approach really came from myself.

PN317

Did you check whether Paul Hudston had a white card?---I didn't check any of the white cards, no.

PN318

Who did?---Who checked them?

PN319

Who checked them for Workforce Logistics?---No, I - well, it's up to me and I wouldn't have checked them. Whether it's an oversight, whether it's looking - when you have site-based compliance requirements, we deal with that at the time as they will be required and at that stage given where we were at in the infancy of the business, I did not see that a white card would have been required.

PN320

What did - sorry, you had started to say that he had a conversation with Paul Hudston about his employment with Workforce Logistics, when was that conversation?---That would have been in the lead up to the registration of the entity.

PN321

So that's - - -?---I couldn't tell you an exact day or time.

PN322

Is that before you've set up Workforce Logistics?---Yes.

PN323

And what - where was that conversation held?---Yes, I can't recall. As I say, I had encounters with Paul over a couple of times. It would have been at a - I can't remember if it was just at a local coffee shop here in - I'm vaguely thinking maybe north of the river somewhere down Joondalup way.

PN324

So based on that timing, is it correct to say that Paul Hudston was part of your plan - the conversation with Paul Hudston was part of your planning for setting up Workforce Logistics?---Part of my planning for ensuring that I had the right team to conduct the work that I was looking at taking on, yes.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN325

What did you speak to Paul about?---Look, just - it would have been around what he was looking to do next, how much he enjoys his work, what his outlook



is. Has he got access to other people, yes, he just would have - I mean, the general questions I, you know, after decades of doing this, I don't go with, you know, with a hit list of preconceived questions. I work around that to ensure that I feel comfortable that somebody's got what it's going to take to assist the business and be a good representative on site to being capable of doing the work, to understanding what motivates them to - for the next foreseeable future if you're to take them on.

PN326

And how long was that conversation, sorry?---Could have been over - around, I don't know, half hour.

PN327

And what did Mr Hudston want to do next?---No, look, he was openly looking at options at the time. He was - obviously it's a pretty buoyant market out there which I knew. It's been a tough market for many years in terms of being able to get the right skillsets within your entity, so from what I understand, Paul was going to have options which is why I secured him.

PN328

Did you tell Paul that he was not to work for anyone else while he was employed by Workforce Logistics?---That would - conversation I wouldn't have thought needed to come up.

PN329

What did Paul do for Workforce Logistics?---So as I said, he was looking to bring on other team members, look at doing method statements, risk profile in terms of what it - yes, the process documents, team members, really just giving me the confidence that we would have the right safety compliance leadership on site and build a team around him.

PN330

So he was doing some recruiting for you?---He was having conversations, yes, that's what I'd asked him to do.

PN331

All right. Was he doing anything at Kewdale?---No. I mean, he'd popped into the site. In terms of what was happening out the back, there was no need for that so, no, he was relatively mobile through that period.

PN332

And how did he update you about his recruiting efforts?---So yes, he - whether it would be phone call - I mean, he hadn't come to the - as I say, he came to the site very, very briefly. We would have either met with him or a phone call or had an update through him or one of the other team members but there was no formal management meeting where we went through agendas or anything that I'd asked him to present formally. From my conversations with him, I trusted him that he was performing the duties that we would be ready to go.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN333

JUSTICE HATCHER: So how many times did you physically meet with him during his employment?---Well, yes, it would have been - yes, a couple of times.

PN334

And where did that occur?---Where?

PN335

Where?---Yes, where? Yes. That would have been offsite. I remember catching up with him in the northern suburbs again.

PN336

So you never met with him at the office site during his employment?---Yes, your Honour. Yes, he did come in - I did meet him at the office site, yes.

PN337

And how many times?---I think he'd maybe only come in a couple of times and then a few times off - yes, a couple of times offsite.

PN338

Thank you.

PN339

MR GHOSH: Did you exchange text messages with Paul?---It's going back a while, I'm not a big texter but, yes, rather the physical catchup.

PN340

And how about emails?---No, Paul's not much of an emailer.

PN341

So to replies to an earlier question, how did you get the method statements and risk profiles that he was working on for you, to you?---Well, he was putting together some of his own.

PN342

JUSTICE HATCHER: So the question was how did he get them to you?---We - physical catchup. We'd review through - remember these are still in draft form, your Honour. So I - yes, would have been a physical catchup going - I mean, I had lots of paperwork going on in terms of policy documents, risk, safety, equipment, so we would have sat through there with a highlighter and a pen and - - -

PN343

So this occurred in the couple of times he went to the office, did it?---Yes, and offsite.

PN344

And where did you meet offsite?---Look, if over the course of the duration of the month, yes, maybe sort of week 2, week 3 through that - - -

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN345

I said, 'Where'?---Where? Yes, I do remember one was - yes, it was in the coffee shop in - I think it was in - just west of - in Currambine or Joondalup, one of the northern suburbs. I can't remember the name of the coffee shop.

PN346

And he'd prepared documents which he physically handed to you, is that what you just said?---Yes. Yes, so there was a compilation of documents. I had stuff that I'd inherited and over time obviously I'm a bit out of the loop with some of the stuff onsite which he was very au fait with that he was working on that he would run past me, 'This is what I'm looking at.' Remember there's a lot going on in terms of compiling documents, putting teams together so it would have given me an overarching summary of where he's at.

PN347

So did he physically provide you documents that he had prepared?---Well, he would have - yes. Paper-based documents that we step through. Yes, yes.

PN348

Thank you.

PN349

MR GHOSH: What did you ask Paul Hudston to do for you in respect of recruiting?---Look at everything from who he would see as being other team leaders onsite through to advice on, yes, who he'd had in his network that potentially would become available in a number of weeks down the track or in the very near future looking at other project work where potential skillsets were getting pulled into, advice on what the market was doing. It was shifting somewhat in terms of rosters and pay rates and the market attractability, those sort of things.

PN350

And what did he tell you about those matters?---Look, it was - yes. I - in terms of his intelligence or understanding of what's onsite, he would have given me some pay rate guidance. From my recollection, the way it was a year or so ago, some - he gave me some confidence that should we be successful, that the required skillsets were out there. There was a number of projects that he knew that were on the tail end of where we could potentially pick up employees. Where - what pay rates people might be on, whether people are - at this time, I'm looking at whether people who are after fixed-term contracts, are they after casual, what are the market forces doing, what are the projects that are around doing in terms of attracting those like skills that are going to be competing against Workforce Logistics. So yes, that intelligence is crucial.

PN351

And what did he tell you about fixed-term contracts or casual contracts?---Look, from my recollection, there's a lot of casualisation remained in the market. It was a preference.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN352

That's what he said to you?---Well, I - look, I heard this from a number of people that I speak to because, obviously, to sure up a workforce, you need to meet with market expectations. Obviously, I've been through this with Skilled when there was recalibration of fixed-term contracts and casual workforces. It was really around what the employees are after that I focus on because that's where you're going to be able to meet with the market. So I can't categorically say exactly verbatim what it was, but I definitely took some advice and counsel from Paul around where other like skills were - and what projects were on and what the pay rates were, what the contract of setups might - I might need to look at to be an attractive proposition for these people.

PN353

Which projects were they?---That they were coming off? I couldn't say. Couldn't say. No. There's been multiple - Perth has been full of project-based work and short labour supply for a number of years now. So Workforce Logistics was very much focused on where the skillsets were coming from. I've been through this before in skilled and taken-on work where you can't form, and that's - the customers look to you to backup what you are pitching to be able to bring the right skilled employees, and projects move very quickly, and you need to be able to ramp up very quickly. So where they were coming from, what - I - it would have made sense to me at the time because I clearly understand the large-scale projects anyway, and Perth is a tight market, and should I not secure my position, then Workforce Logistics just wouldn't be able to deliver.

PN354

And who are the team leaders that he recommended to you?---I couldn't recall names, and at the time, I would have taken counsel in confidence that there was known quantities. We didn't get to the point that I was after - you know, meetings one-on-one with potential team leaders. It was - he's got a good working history of on-sites. He knew what I needed. He understood the brief, and I took comfort that he was the right guy to be able to bring that capability to the business once we were successful.

PN355

Now, was Paul Hudston working on other building sites for other employers or contractors during the course of his employment with Workforce Logistics?---Not that I know of.

PN356

Now, you said that you came to know Vince Ruffino while you were working - both working at Skilled?---I just missed a bit of that. I knew Vince Ruffino while working at Skilled, did you say?

PN357

Yes. That's how you met him?---Yes, correct.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN358

What was he doing at Skilled?---So he was within the - temporarily within - he wasn't for a long period of time. He was assisting with some of the branches in terms of their recruitment doing some pricing. Yes.

PN359

Do you remember his title?---The - he probably would have had various titles over a brief period there. I don't remember his exact title, no.

PN360

But he wasn't working as a mechanical fitter?---Not in Skilled he wasn't, no.

PN361

How did Mr Ruffino come to apply for a job at Workforce Logistics?---I asked him.

PN362

What did you say to him?---I was consulting for Diablo at the time. Vince was working on temporary barrier systems out the back which is why he had the machines, et cetera, there. He had a good work ethic. He'd clearly had trade-based experience in what he'd been doing over the last decade or so within Diablo in repairing and building barrier-end systems, et cetera. I saw him as a future team leader in there. His business at the time was - is a project-based business. So there was a - very much a lull in that business over that period that he was concerned. He wasn't busy as he wanted to be. He - depending on which way that was going to go, he was looking for other options at that time, and I approached him about giving him an option to join Workforce Logistics.

PN363

JUSTICE HATCHER: So did he charge you rent for the use of his office space?---He didn't charge me rent, Mr President, no.

PN364

Why not? What was the arrangement?---Look, he saw that I was a start-up. He - yes, call it good will, but, look, it fit with my needs. I had asked him. He was willing to assist. I was going to look at other rented office space. As I say, his work at the time was falling away or had been falling away. The project were very light on. I said, 'I've got spare capacity here. Why would you go and rent a place when you're welcome? There's car bays. There's some desks', and, yes, he welcomed me to operate the business from there and would have been a - in terms of its location to blue collar network, to potential clients and subcontractors in the mining space. I've always worked in and around Welshpool/Kewdale for my whole - nearly all of my working career. Commercial premises in that area for two or three years has been next to none. There is - it was pretty safe to say there was almost zero availability in those areas. Well, actually, I'll take that back. I'll say very expensive, not good for a start-up. He offered it to me, and I accepted to work from there.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN365

And how often did you go into there for the period the company was established up until the time that the enterprise agreement was made?---How often from when the company was established, did you say?

PN366

Yes up until when the enterprise agreement was made. How many times did you actually go there?---Look, I mean, I would have been - between talking to prospective clients and driving around, I would have been in there almost daily.

PN367

All right. Thank you?---Yes. Well, yes. It would be - more often that, you know, if it wasn't five days a week, it was definitely four days a week intermittently at - some days for full days, and other days were in and out, but it was very active out on meetings offsite as well.

PN368

Thank you?---Yes.

PN369

MR GHOSH: Now, may I take it from your earlier answer that you didn't check whether Vince had a white card?---No, I didn't.

PN370

What was the work that Mr Ruffino did for Workforce Logistics?---So yes, it's pretty much the same stuff. So Vince is very skilled at building teams. He is - he's a fitter by trade, showed great craft in terms of what he was doing inside his workshop, had site-based experience and also from liaising with, I guess, middle management and supervisory on mining maintenance construction sites, yes, absolutely ideal candidate to be trade-based, working in the trade and also being able to be a potential supervisor onsite with the added skills of assisting me in compliance-based matters as well. So yes, absolutely critical and a great employee to have.

PN371

What does building teams mean?---It means having capability to perform works for the clients that you tell them that you can perform works to.

PN372

I didn't understand that answer. I'm just going to ask the question again, but if you could turn to it in a little bit more detail, what does building teams mean?---Building teams?

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN373

Yes?---So building teams is more than just a recruitment process. So if you want to use a generic term of labour hire where you have inexperienced people sifting through CVs doing two reference checks, it may or may not count or matter in the scheme of things and putting them onsite unknown to me is not building teams and capability. Building teams and capability is having experienced heads with no networks with those that you can trust because as a - as an on-hire labour business, you can be potentially multi-levels removed from employees onsite

which I've long held is a risk both in the calibre of employees you're taking to site, but also the added risk of being a director of a business that doesn't have control on how their workforce is going. The commercial nature of on-hire labour has changed over 10 or 15 years since I started in 2009 and 10 in terms of a lot of the risk being pushed to the labour hire business, and that has changed my view on what you need in terms of the sound capability from people who can conduct the work onsite, but also have the interests of the business in mind and be able to refer and sort - seek employees to come into your business, as I say, rather than adverts up on Seek and having a recruiter go through two reference checks, I don't believe is - is not the right way I wanted to run Workforce Logistics.

PN374

How many people worked for Diablo?---I - look, I believe about a dozen, give or take a couple, but at that time, there was only, I believe, maybe one full-time employee. The rest were casual, university staff, et cetera, project-based. So during that time, when I say employees, sometimes it was doing a three-hour shift in a fortnight for a casual to go out and fix a guard, they're not rolling 38, 48-hour week casuals with work to do. That business can go months with very little activity.

PN375

So Mr Ruffino, did you observe him building teams while he was at Diablo?---Yes.

PN376

So that was part of his role there. What teams were they?---He was looking at unskilled and skilled casual employees to perform barrier work both in maintenance, fixing barriers, installing barriers as projects required. That business took them to regional areas, took them to various other projects, depending on where they were based in Australia but - so yes, there was a mix between university-based casual employees to, as I say, skilled workers working on the roads.

PN377

And during the course of his employment, how many times did you meet with Mr Ruffino to talk about his activities for Workforce Logistics?---Yes. It would have been quite often. I mean, I can't put a number on it. I was in and out of that Aitken Way property on a majority of the time that Workforce Logistics was under my control and so - yes, look, I just could not put a number on it. Sometimes it might have been a brief hour chat, other times we may have sat together for three or - you know, quite a number of hours going through all matters of things in terms of potential introductions through to compliance-based stuff, through to me rebounding off Vince about the potential projects, what was needed, his ability to work away, what that was looking like with his family situation or - and also in terms of maybe potential casual employees that had already over history had worked inside Diablo that were no longer employed that we'd take or that Workforce Logistics could take these employees on because they're the right skillsets that - because of the project-based work that I just mentioned in Diablo, potentially wouldn't be utilised or have future work.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN378

Was he still running his own business while he was employed by you?---Yes. So he's the managing director, when you say, 'Running the business', his son was the operations manager. There was very little work on at the time. The business was under severe stress with lack of projects coming on, the post-COVID world really put a dampener on the project, so the business was under a lot of stress. So he still held the title of director, but he had no work for himself directly in there at that time because the little work that was going on, the operations manager was managing it. Vince was, I guess, concerned at the time about where that was going and what future work may be around and we had had conversations that could I be successful in picking up this work. I had directly asked Vince to join and whether he had the bandwidth to join and assist the business. Would have loved to have, you know, he was a perfect employee for me, it lined up for him given his - the forecast for Diablo was not very good at the time. So yes, as - in terms of actively what he was doing in Diablo, look, he was still open if he had to take phone calls or deal with things, matters with his son but look, he'd given me confidence that he was purely focused on what we were looking to achieve.

PN379

Did - you mentioned that there were times that Mr Ruffino worked away, he worked away during periods that he was working for Workforce Logistics, didn't he?---Worked away, not - no. (Indistinct).

PN380

So he was - - -?---Well, I'm just trying to think whether there was any need to go - I know he - I think he might have had to go to Melbourne for a trip, I'm not sure. He may or may not have during that period. I'm trying to think, he may have had to be off for a couple of days, which I gave him the ability to make that up but yes. No, for the most part, he was around.

PN381

But you didn't send him to Melbourne or to Queensland, did you?---No. No. And I'm not - I'm just trying to think whether it was during that period. Obviously, I had had conversations prior to the business setting up as I did with Paul, with Vince about getting that team together and what his bandwidth was going to be like to make sure that he could commit. I couldn't tell you exact dates but I - and I was in the office most of the time, caught up with Vince quite often so I felt that that was good consistency in terms of being ready.

PN382

Your Honours, I note the time.

PN383

JUSTICE HATCHER: How long - do you think you'll be much further with this witness?

PN384

MR GHOSH: I anticipate I'll need approximately 45 minutes to an hour with this witness.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH



PN385

JUSTICE HATCHER: We can only sit till 4 o'clock Eastern time today, so will we get through the programmed witnesses?

PN386

MR GHOSH: Yes, your Honour. I'm comfortable we will get through the program of the witnesses.

PN387

JUSTICE HATCHER: All right. Well, we'll take a short luncheon then of half an hour. We'll resume at - so we'll resume at 1.30.

PN388

So Mr Read, we're just going to take a short break of about half an hour, so if you could come back to the witness box just at about 1.25, please?---All right, your Honour. Yes.

PN389

And can you not speak to any other person about your evidence during the break?---Yes, your Honour. Yes.

PN390

All right?---Sure.

PN391

All right. We'll adjourn until 1.30 Eastern time.

**<THE WITNESS WITHDREW [1.00 PM]**

**LUNCHEON ADJOURNMENT [1.00 PM]**

**RESUMED [1.35 PM]**

**<BLAKE ANDREW READ, RECALLED [1.35 PM]**

**EXAMINATION-IN-CHIEF BY MR GHOSH, CONTINUING [1.35 PM]**

PN392

JUSTICE HATCHER: So Mr Read, you remain on your former affirmation?---Sorry, can you repeat that? Sorry, it was a bit hard to hear.

PN393

Yes, you remain on the affirmation that you took this morning?---Yes. I do.

PN394

That's all right. Mr Ghosh?---Thank you. Thanks, your Honour.

PN395

Perhaps we can try and move a bit faster, Mr Ghosh.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN396

MR GHOSH: Certainly, your Honour, thank you. Mr Read, you've indicated that you met with Mr Ruffino prior to the set up with Workforce Logistics, just before lunch?---Yes.

PN397

Didn't you take his advice – were you meeting with him to discuss his role in that business?---Yes.

PN398

Did you discuss the advisability or viability of the business?---Discuss the viability of which business, sorry?

PN399

Workforce Logistics?---No, I discussed the intent of the business.

PN400

Okay. And what did you describe the intent of the business to him as?---To build a project on hire labour – labour business to – to in trying to secure project – project work which we understood.

PN401

Now, could I ask you to turn to Tab – sorry, Page 101 in the bundle in front of you? Do you have that up?---Yes, I do.

PN402

Now, that appears to be the linked in profile of Vince Ruffino's. Is that a picture of him? I appreciate it's not perfect?---Yes, yes, that is.

PN403

Did you speak to him at the lunch interval?---At the lunch interval? No.

PN404

Can I ask you about – to have a look about halfway down that page, where – I'm sorry, let me start at the first paragraph under the word 'about'? Do you see that? Can I ask you to read that paragraph?---Sorry, which paragraph?

PN405

It's the paragraph beginning 'Diablo Industrial Services'?---Right. Is this – yes, is the solutions business – are you asking me to read that?

PN406

Yes, not aloud, sorry. Just to yourself?---Oh, okay.

PN407

Now, can I ask you to go to the next paragraph which says our core business is micro-sourcing, providing outsourced solutions for organisations looking to manage, improve, isolate and outsource critical business functions and processes where performance is foreseeably or historically problematic.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN408

What do you understand by the use of the word micro-sourcing there?---Yes, I – I don't understand it.

PN409

Okay. What do you understand by the use of the words 'Providing outsourced solutions'?---Well, in terms of the context of those words, it allows principals or project owners to outsource a scope of works, I take it?

PN410

Okay. What do you understand by the words, 'Critical business functions' there? In the second one?---In relation to his business or just in the context of the words?

PN411

Yes, in the context of this being a description of what Diablo does?---Well, his – his barriers are critical business functions would be for main roads or the principals doing road construction and maintenance to outsource that to Diablo which are critical to the road network. The – what the services that Diablo provide.

PN412

Sorry, I might have missed it. Where does it say barriers or road services there?---Oh, I was just answering the question on what critical business functions means. Yes, you'd have to ask - - -

PN413

JUSTICE HATCHER: Mr Ghosh, the witness is not the author of these words, so I'm not sure if he can really explain them. I mean, you could ask him whether you think it's an accurate description of Diablo's business, but don't think he can explain the intent or meaning of the words used.

PN414

MR GHOSH: Well, your Honour, I think he can't explain the intent of the words used, but as someone who has provided commercial management functions for the company, he can give his understanding of those words given that it's the description provided by the managing director? That would be my submission.

PN415

JUSTICE HATCHER: Well, where does that get us? I mean, the witness has described what he says is the actual – actual nature of Diablo's business. We can draw our own conclusions as to what he said and what these words say and whether they mean the same thing.

PN416

MR GHOSH: Okay. I'll move on, thank you.

PN417

MR RAFTOS: Your Honour, these questions are really for Mr Atheno.

PN418

JUSTICE HATCHER: Well, I think I've made the point.

PN419

MR RAFTOS: Yes. Thank you.

PN420

JUSTICE HATCHER: We'll move on.

PN421

MR GHOSH: Mr Read, the proposition I want to put to you is that part of Mr Ruffino's business at Diablo Industrial Services relates to outsourcing or labour hire operations. And that that's why you met with him prior to entry into this contract?---Um - - -

PN422

Employment?---Okay, so question in that for me?

PN423

Well, I'm just wondering, do you have a comment on that proposition? Is that proposition correct, this is the question?---No, it's not correct.

PN424

Okay?---I'll expand on that. The contracts with that business deals - - -

PN425

No, that's fine. That's fine, I don't need you to expand on it. Thank you?---Okay.

PN426

Now, you've produced payslips issued to Workforce Logistics employees while you were the director of the company?---Yes.

PN427

The first set are – well, there's two sets of six and they run from the periods from 29 August to 11 September 2022 and they run from the period from 12 to 25 September 2022?---Right.

PN428

Now, each payslip is for 38 hours at a rate of \$45 per hour and in an identical amount of \$2364?---Why were each of these employees paid the same rate?---Look, in terms of – in terms of the testing on market rates that blend between the levels in terms of what would potentially be site based versus – I mean, they're – they're potential earnings once the - first and foremost – let me start again – is there's an attractivity – attraction rate that you need to pay to be able to secure people's services. And I looked at that in context of what they potentially would earn out on site versus the rate going around Perth. Look, they – they were competent in their own particular fields of the trades that they – they held and in discussions with them, that those rates were with their expectations and acknowledgment and approval and what I was comfortable in the business to pay.

PN429

You represented to the Commission, when seeking approval of this agreement that these workers had experience levels ranging from 10 years to 32 years in the construction industry?---In their respective trades in the industry, yes.

PN430

In their respective trades. In your experience of the construction industry, are people across that range of experiences paid identical amounts for work done for construction companies?---Look, it – no, look, it varies. I mean, some – where you have – where they're paid the same between different – different classifications but at the end of the day, it's an individual choice as long as it meets with minimum expectations and meets with the market. It's a one on one conversation. I – you know, where I can have employees on – who are performing like for like work, then parity works where people are on equal footing, there was no team leaders, just in terms of a structure or anybody supervising other people. So I felt that - - -

PN431

JUSTICE HATCHER: So Mr Read, you say these, the rates you pay, they're market competitive for work on site in Western Australia, is it?---I – no, not on site, Yes, your Honour.

PN432

Or for what?---When you say on site, look, you – if – as the work that it was positioned for, these workers would have had the ability to earn much more in terms of allowances, in terms of site, allowances in terms of hours, et cetera. So noting this was - - -

PN433

So what were the rates market competitive for? What market? What work?---Well, skilled qualified, in terms of Perth – Perth based.

PN434

Perth based what?---Perth based functions, so they weren't asked to be away from their homes. They weren't asked to be – to be out on sites. So - - -

PN435

So, I'm just trying to understand this, so but when you say the rates were market competitive, they were market competitive for working at home doing what?---For – sorry, for Perth based rather than remote – the business was set up to do remote site based work.

PN436

Yes?---So until such time as that – that kicked in, in terms of a 38-hour week, being able to have the luxury of being at your home each night, wouldn't be paying the same rates as I would for somebody who I was asking to be working away from their – away from their home. So look, they – they absolutely would have been of the - of the hope that their earning capacity could grow with the business.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN437

Yes, but the rate you did pay them was market competitive for what type of work?---Well, for – to attract their right trades. I mean, the work that they were doing was – was in the start up mode in terms of policy writing, in terms of rising and recruitment is what the employees were comfortable to be paid in those roles with the duties that - that I put in front of them.

PN438

And am I right in saying that each employee was engaged in a contract for a maximum term of four weeks?---Yes, correct.

PN439

Yes. And that was four weeks to do the work you've just described?---Yes, correct.

PN440

And what happened after that? They were then put off, were they or?---Yes, so look, the business since its inception and prior to registration of the company was to – to look at certain projects that were being awarded through a sub-contract work, et cetera, as I went through that process, and beyond, I didn't want to give firm commitments post that, should we not be able to – obviously a company has its obligations to trade with in its means and its – and its funding. We position to confidently win – win the business and – and be able to have the capability if and should we win it. And that didn't transpire. The employees knew it was a fixed term contract and that was – that was the reason it was structured that way.

PN441

So they were engaged for four weeks, knowing that you had no actual trades work for them to do?---Yes, correct. I mean, we had – we just had some minor – minor work to do, but they were happy to position themselves to come along with Workforce Logistics. I mean, the – my job as being the owner and obviously trying to build a business is – is not obviously provide any sort of false hope or information but clearly provide a pathway that I believe would have been – would have been good for these guys, should we have been successful. Trying to build a business that had an offering for these guys to – to build upon their own skill sets and get onto some good projects.

PN442

Thank you?---It's about – about options. Thank you.

PN443

Mr Ghosh?

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN444

MR GHOSH: How is that answer, Mr Read, consistent with your earlier answer that part of the reason to get these individuals involved in team building activities was because it's a – or team building role, is because it's a competitive labour market and there aren't that many – or there is hot labour market in Western Australia at the moment?---Trying to – and jump in, if I'm not answering the

question right – I mean, this is – how did I secure their services? Is that behind your question?

PN445

Yes?---Well, look, I clearly articulated where I wanted Workforce Logistics to be. My history is working on blue chip large scale projects. I've been involved and I have a – and hopefully - hopefully, I'm sure they would say this, in terms of some of the delivery of projects and services, employees that I've done on large WA mining projects would be endorsed by some senior people within those areas. So they believed I had the contacts and the capability to build a good business.

PN446

Now, why didn't those payslips show annual leave accruals?---Yes.

PN447

No, why didn't they?---Why didn't - - -

PN448

Sorry, let me take you to one, it's page 241 in the bundle?---Yes. No, we corrected that. We corrected that afterwards. So that was just a box that was ticked on our accounting software around accrual of - accrual of hours. So that was fixed up down the track. I hadn't picked it up at the time, and obviously once that was picked up the error was - the error was fixed. It was just an administrative oversight in the way that the payroll system was set up.

PN449

So the payroll documents were reissued to the individuals?---I might have to have a look at that. I mean the accrual was done outside of the system and the payment was made. There was a manual calculation in terms of - I remember doing that - in terms of what the accrued hours would be on a - on a four week contract and what the requirement was in terms of annual leave provision.

PN450

And given the work that you've set out that each of the employees did under these contracts why did you pay them 76 hours a fortnight or 38 hours a week?---Well, I guess in terms of - in terms of what I expected from the guys. I mean I wasn't in a position to be able to - I wanted to balance it between securing the services, given the remuneration in recognition of what their alternate earnings capacity could be elsewhere, balanced with my - I articulated that the position wasn't in - they could do 60, 70 hours a week somewhere else - I could not offer that to them at that time. But my expectation and anticipation of this business was that we be able to ramp up the hours with onsite work.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN451

But until that point it was money for nothing?---Essentially the guys did - no, I wouldn't say money for nothing. They had - they had the ability to earn funds elsewhere. You'd have to ask them in terms of whether I let them down in terms of the business not picking up the work, whether they had banked on this getting

them back on sites and hopefully, you know, potentially negotiating or getting to better rates of pay, et cetera. But that's their own individual decision. As I say the Workforce Logistics was hoping to do things that other on-hire businesses were not doing in my mind.

PN452

JUSTICE HATCHER: So just so I understand this. The four employees started employment on 29 August; is that right?---Correct, your Honour.

PN453

I'm just looking at a calendar. So cross four weeks their last day of work, was that Friday 23 September?---I don't have a calendar in front of me. Four weeks - four weeks Monday to Friday and four weeks on from the 29th. So it sounds about right, your Honour.

PN454

That was the same day they voted on the agreement?---Yes.

PN455

So is this the position, that when they voted on the agreement they knew their employment was ending that day?---Well, I guess the contract that had been set up some - a month prior to that did have a cessation date, and I did that for a couple of reasons, your Honour, and that was to - - -

PN456

That's not what I asked you. What I have asked you is the day the employees voted on the agreement was 23 September, correct?---Yes.

PN457

And on the day they voted for the agreement is it correct that the employees knew that their employment was ending on that day?---Of that original contract, yes.

PN458

Thank you.

PN459

MR GHOSH: Mr Read, who drafted the Workforce Logistics Enterprise Agreement?---Yes, I did.

PN460

On your own?---Yes, with some advice if I'd needed it, but, no, I did.

PN461

Who advised you of the drafting of it?---Look, I'd had some previous experience in this, but I'd spoken to Mark off the top if I ever had issues, but for all purposes I was relatively comfortable I was putting together the right document - - -

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN462



So that's Mark Hudston? Sorry just to cut you off?---Yes. He's got experience in those, so I would have got him to run his eye to make sure I hadn't missed what I was trying to achieve in that - in that document.

PN463

What precedent did you work off?---What precedent?

PN464

Yes. Or did you draft this document from scratch, word for word, is that your evidence?---Well, no, not word - so I had - I had been involved obviously in the Skilled Group. I had been privy to such documents, and I had - I had been involved in a hire company, so I went off other documents as a template.

PN465

Do you remember which document you used as a template?---I believe it was one that I had had assistance on a number of years before that in another business that I had owned.

PN466

What was the name of that business?---That was called Equipa Pty Ltd.

PN467

What did Equipa do?---Essentially mining services on hire labour.

PN468

Who do they work for?---The employees - - -

PN469

Who did Equipa - - -?---The employees of Equipa?

PN470

Yes?---We had people down at - you want me to name the clients or the projects?

PN471

Yes, please, both.

PN472

MR RAFTOS: Your Honour, I'm struggling to see relevance of this. The evidence is a precedent was used from Equipa. I don't think we need to know about Equipa's clients, projects, which I struggle to see how is relevant.

PN473

JUSTICE HATCHER: Mr Raftos, you're here to protect the personal interests of in this case Mr Read. I am not sure that that extends to you making objections as to the relevance to the appeal. So I won't allow that objection. Please proceed.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN474

THE WITNESS: Yes, look, we did some firm recruitment, and one of the clients that we did have was down at Keysbrook, Mineral Sands Mine, which is just south of Perth. Sorry, I'm trying to get a photographic memory of our client

base. A lot of the second tier, just small second tier mining or mining services contractors. It wasn't a large organisation.

PN475

MR GHOSH: You've indicated that Mark Hudston had input on this agreement. Did you give him a draft of it to look at?---Yes, we would have sat down and run through it so I could make sure that I hadn't missed anything. It had been five years since I had had Equipa, so, yes, just asked him as a trusted friend and adviser to make sure I'd put things together correctly.

PN476

Did he charge you for that advice?

PN477

MR RAFTOS: I'm sorry, your Honour, how is the relevance - what's the relevance of that question?

PN478

JUSTICE HATCHER: What's the relevance of the question, Mr Ghosh?

PN479

MR GHOSH: Your Honour, we're enquiring into the circumstances of the preparation of this agreement. The union's - - -

PN480

JUSTICE HATCHER: What we're concerned with has been to appeal grounds. I think relevantly is whether it was genuinely agreed. So what's the relevance of that to the issue of genuine agreement?

PN481

MR GHOSH: So the starting point for its relevance is that in considering the question, particularly in reference to section 188C of the Act as it then was, as set out by the Federal Court in *One Key Workforce*, any circumstance which could logically bear on the question of whether the agreement of the relevant employees was genuine would be relevant, and that's at pages 555 and 556 of the Federal Court Reports, and that's paragraphs 141 to 143.

PN482

The second step is part of the union's argument in this case is that this is not an authentic or genuine agreement. When you have the circumstances here where you have an IR consultant advising on the agreement, their brother is one of six employees, that person's nephew is one of six employees, or that person's son is one of the employees, I'm not sure, we would say that that falls into that circumstance and forms part of the argument we can make about the genuineness of the agreement.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN483

JUSTICE HATCHER: We already know that Mark Hudston helped Mr Read or advised Mr Read about the drafting of the agreement. We already know that

Mark Hudston was related to two of the employees, but how much further can we take it from that? Perhaps just move on to another topic, Mr Ghosh.

PN484

MR GHOSH: Yes. So when you had finalised the agreement what did you do next?---When we finalised the agreement?

PN485

Yes?---You mean - okay. So it was put - in terms of the course of that - the agreement was finalised, it was provided to the employees. Yes?

PN486

Yes. Who did you negotiate with?---Who did I negotiate with?

PN487

Who did you negotiate the agreement?---The six employees were the ones that provided the agreement to.

PN488

Yes?---Which negotiation do you refer to?

PN489

Was there any negotiation with any of the employees about the agreement?---Yes. Well, there was an ability to. The requirement here through the process and to follow due process was to provide them copies and allow them a voice to discuss, to raise clarification points, to raise any issues. They were provided copies of the awards that underpinned it, copies of the Workforce Logistics Enterprise Agreement which I had drafted. I wanted them, and it was communicated to them to read closely that they understood it. It was much comfort for me that they understood it as for them, as is their right to understand it and to have the forum to answer or ask any of those questions of me. I was very clear that I wanted them to read, pay particular detail to it, because I would not want down the track any grey area or something to either feel aggrieved or not be in line with either process, or the employees - - -

PN490

But as I understand your answer earlier, Mr Read, it is that you didn't actually engage in any negotiations with the employees about the agreement?---Well, when you say in negotiations were there - - -

PN491

Did they ask for any changes to the agreement?---No, they didn't, no.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN492

Okay. You said you gave them the opportunity, but you didn't actually have any discussions about changing the agreement with any of those employees, did you?---Well, I welcomed the conversation around if there's, you know, changes or something that's inconsistent or doesn't make sense to them. I went over and over it in terms of have I missed anything. But, no, I welcomed any communication and feedback just as I did when I went through the process with Equipa. I don't

want inconsistencies or employees having things that down the track are not either good for the employees' entitlements or whatever or the way that we treat the employees. So I welcomed them to do a thorough review and ask any questions. I'm not - I don't know their past in terms - when I say their past I mean in terms of going through negotiations before. I mean I would have raised that question when first - do people understand what we're doing and why we're doing it, et cetera. But there was nothing there in those conversations or subsequent meetings where issues around inconsistencies or clarification points were needed, which I find is good that they read it and understood it, and good that they endorsed what I put together met with their acceptance.

PN493

So you refer to meetings, what meetings are you talking about?---Yes, we had - we had a couple of meetings along the way. I mean, there was communication, your Honour, around those documents and they were physically handed to them, and emailed to them to make sure that they had copies, so that went to all employees. And then it was probably about a week later, we had - there's a couple of opportunities for the guys to raise any concerns. I mean, they were welcome to call me outside of those times, but I thought it prudent just to, yes, stop and have the conversations and I can just allow a bit more of the forum to ensure they've been heard or I can provide any guidance, or anything that's come out of their reading to the need to be discussed with a wider group, between them, you know, with me present as well.

PN494

JUSTICE HATCHER: So when you say meetings, you mean face-to-face, physical meetings?---Yes, I gave the opportunities for guys to come to me, on-one-one, or whatever. Or go through the bargaining representative if they need to. So we had a couple of meetings. Not all the people were present, physically, at the Aitken Way premises, so we'd get to them over the course of the day. So I remember there was, yes, three or four, or three, at a physical meeting. There's - that's why, at that first meeting on the - whenever it was, the 14th or so, we had the meeting around what the process was, notification to vote, et cetera, when it all went out on email with all the context of the two awards in the agreements. And the, yes, followed up with an ability for the guys to be present at the Aitken Way premises, and I confirmed with them, those that couldn't be present at those times, that that would also make sure that there's a catch-up occurred to hear any issues. As well as, obviously, their bargaining representative that they've got access to and they've nominated.

PN495

Mr Gosh, do you intend to ask the witness about any matters of the two in the F17 declaration? And I say that because the issue of the meeting is now the subject of statements in the declaration.

PN496

MR GHOSH: Yes. I was intending to, your Honour, but to be brief about it.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN497

JUSTICE HATCHER: Well - - -

PN498

MR GHOSH: If Your Honour has questions, then - - -

PN499

JUSTICE HATCHER: No, no. I'm going on a different track. Should the - did you intend to challenge the truthfulness of any of the matters in the declaration? I ask that because I'm just wondering whether the witness should be given a warning in respect of self-incrimination, if you intend to go down that path.

PN500

MR GHOSH: Out of an abundance of caution, I think the warning should be given.

PN501

JUSTICE HATCHER: Do you want to say anything about this, Mr Raftos?

PN502

MR RAFTOS: Well, your Honour, I'd make the submissions, you can ask Mr Read questions about the declaration.

PN503

JUSTICE HATCHER: I'm sorry?

PN504

MR RAFTOS: We have no objections to Mr Read being asked about the declaration.

PN505

JUSTICE HATCHER: Well, should he be given a warning in respect of self-incrimination?

PN506

MR RAFTOS: No, your Honour.

PN507

JUSTICE HATCHER: No. All right. Do you understand that a false statement of declaration may constitute a criminal offence under the Commonwealth Criminal Code?

PN508

MR RAFTOS: Are you asking me or Mr Read?

PN509

JUSTICE HATCHER: I'm asking you.

PN510

MR RAFTOS: Yes. Yes, your Honour.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN511

JUSTICE HATCHER: But you're content for the witness not to be given a warning about this?

PN512

MR RAFTOS: We are content for him to be and fully on the declaration, your Honour.

PN513

JUSTICE HATCHER: And you don't intend to invoke, on behalf of your client, privilege against self-incrimination?

PN514

MR RAFTOS: No, we don't.

PN515

JUSTICE HATCHER: Mr Pollock, do you want to say anything?

PN516

MR POLLOCK: Well, your Honour, Mr Read's not my client. I can only make the - - -

PN517

JUSTICE HATCHER: I know. Mr Raftos is here to protect his interests; I can only put it as clearly as I can.

PN518

MR POLLOCK: Indeed, and I can only make the observation that if those propositions are going to be put, then I would have thought it almost elementary that the witness be given that appropriate caution. But that's not for me to take it any further than that.

PN519

MR RAFTOS: Your Honour, I'm instructed, if the Bench could give the caution.

PN520

JUSTICE HATCHER: That's all right. Mr Ghosh, if you consider that any answer you give - - -

PN521

MR POLLOCK: Sorry, your Honour, I think you might be addressed to Mr Read, rather than Mr Ghosh.

PN522

JUSTICE HATCHER: Yes, I was. I did mean this to be addressed to Mr Read. Mr Read, if you consider that any answer you give to a question, may give rise to a risk of self-incrimination, that is, constitute evidence of the commission of a criminal offence by yourself, then you may decline to answer the question on that ground. Do you understand that?---Okay. Yes, right. I do understand that. Thank you, your Honour.

\*\*\*

BLAKE ANDREW READ

XN MR GHOSH

PN523

And the context I'm raising this is that you've made a form F17 declaration in support of the application for approval of the agreement?---Yes.

PN524

And any false or misleading information in that declaration may constitute a criminal offence under section 137.1 and 2 of the Commonwealth Criminal Code?---All right, your Honour. Thank you.

PN525

All right, thank you. Go ahead, Mr Ghosh.

PN526

MR GHOSH: Mr Read, as I understood the evidence you gave to His Honour's question earlier, it was that there was an opportunity for employees to have meetings, but there weren't actual meetings?---There - there were meetings, yes.

PN527

Okay. When were those meetings?---There's a couple of dates. I think it was about four or five days after the email went out, so I think it was the 19th and the 21st, I think, of September. So yes, I may be a day or two wrong, but.

PN528

And was there a meeting on 15 September, or is that - - -?---What happened on 15 September? Well, there was communications sent out on the agreements, and the notice to - I think on the notice to vote. Yes.

PN529

JUSTICE HATCHER: Perhaps you should take the witness to page 50 of the bundle Mr Ghosh.

PN530

MR GHOSH: Yes. Mr Read, can you turn to page 50 of the bundle. Now, do you see in the first non-bolded row, in the first table, that there's reference to 15 September?---Yes.

PN531

And that you indicated that at that meeting, employees were taken through the agreement with reference to the awards at the meeting?---Yes.

PN532

Where was that meeting held?

PN533

JUSTICE HATCHER: Well, just to be clear, I think you need to take the witness to the two lines that immediately follow, because it's unclear, me reading that, what the reference to 15 September is.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN534

MR GHOSH: Certainly. Mr Read, would you read all of the material in the column, 'Steps taken'?---Yes. So 'On 15 September, the employees that were taken through the agreement in reference to the award'. So that was the Workforce Logistic agreement, and the two awards on that 15th. So yes, there would have been a detailed conversation about that, and further information sessions were available on the - or booked in on 19 and 21 September. So that 15th was the time that the guys would have been taken through in more detail about what the content within he awards.

PN535

JUSTICE HATCHER: So was that a physical meeting, was it?---Yes.

PN536

When did that occur?---That would have been - they were all at Aitken Way. Again - - -

PN537

Who attended?---Yes, with the employees that were on there that day, I'd have to have a look at the minutes, but again, a lot of the employees were out. So it would have been - yes, we had to go and meet with a couple of other employees off-site, and also March assisted in that process, I recall. So we would have had Daniel, Mark, and Vince out at the back of the warehouse doing some work, and Alex and Paul and Steve were caught up separately on that 15th. An email was sent out the day before that day, with those attachments, and then, yes, a physical catchup to go through them.

PN538

When you said they were called up, what do you mean by that?---When they were called up - sorry?

PN539

So they weren't at the meeting, but I thought you said they were then called up?---Yes, and a number of the employees were at that meeting on the 15th, and some were offsite, who got to - we caught up - caught up.

PN540

Caught up, sorry? Caught up?---Yes, sorry. Yes, caught up, to go through that. I thought it was, yes, obviously to be rigorous in the process. I mean, we needed to make sure that all six employees have been stepped through what was in the two awards, but also the Workforce Logistics enterprise agreement.

PN541

I thought you said earlier that you didn't meet with Alex Hudston at any stage during his employment?---No, I didn't meet with Alex on this one. I actually had asked Mark Hudston to assist.

PN542

And again, you said, after his initial engagement, you didn't meet with Paul Hudston during his employment?---Who, Mark?

\*\*\* BLAKE ANDREW READ

XN MR GHOSH



PN543

Paul Hudston?---Sorry, Paul Hudston. That I didn't meet with Paul Hudston?

PN544

Yes?---Yes, so - sorry if I wasn't clear. So the three employees that were onsite that day were Daniel, Mark, and Vince Ruffino, okay? And the three that were offsite were attended to by Mark, to step them through the agreements.

PN545

What was Mark Hudston's connection with Workforce Logistics?---No, he - Mark was really just a bit of a helping hand to me. It was a busy time, so he had helped out where he could. I had lots going on in setting up this business, out to clients et cetera, and he had offered to help out. I had instructed him and took up that offer that the would communicate the two EAs and the workforce logistics EA, and had confirmation back that those conversations had been held, and I trusted Mark, obviously, him knowing the process and especially, I guess, with the two awards, what was in them. He had had exposure to the EA, the Workforce Logistics EA. So no, I was comfortable in that process, that he would have those conversations on my behalf.

PN546

VICE PRESIDENT ASBURY: Well, can you just remind me, Mr Read, what qualifications that Mr Hudston had to explain awards and enterprise agreements?---Mark had been a consultant in that area for a long time. He had proved to me, when I was at Skilled. He had assisted us in certain matters, that he was a wealth of knowledge in that area and I could rest on him for that assistance. He understood that there was a lot going in this business for me to be prepared for these projects, and had offered to relay those communications to those who weren't in the Aitken Way premises.

PN547

JUSTICE HATCHER: Now just remind me, why was he helping you?---Yes, look, I guess we have a relationship that went back a while. He saw what happened in the equipper business and had offered that. I had asked him to run his eye over the agreement. He - you'd have to ask him that, but, like, he was helping me get this thing off the ground and, well, offered his assistance with what I needed. I mean, I didn't engage him on a formal, paid capacity. Yes, he was giving me a helping hand to - in the hope, I guess, that I could make - yes, I could make this business work. He was understanding of how the (indistinct) business, had the seeds on that business many, many years before, and had offered assistance.

PN548

At page 48 of the bundle - this is still in your declaration - it says that each employee was physically handed a copy of a notice of employee representational rights; do you see that?---Yes, correct.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN549

Who did that?---Yes. So I had handed out those to the employees that were in the office that day, and Mark and I handed out the other ones, and then I - yes. So they were - I had confirmation, they were all handed out on that 31st and then - - -

PN550

Did Mark go to their homes, did he?---I'm not sure whether he went to the – yes, well, whether he was at their homes or caught up with them somewhere in between. I know Paul had been out to the premises but I hadn't caught him that day. So, yes, I had confirmation back from him that they had been handed out, your Honour. I'd also emailed out post that, later on that evening, sent an electronic copy just to ensure that they had that on file as well.

PN551

Sorry, Mr Ghosh.

PN552

MR GHOSH: In relation to that meeting, Mr Read, you referred to minutes in your earlier answer. Where are the minutes of that meeting?---I mean, the business was – folded some time ago. I would have had a record of what was going on but I guess once I'd – once I was comfortable with the process and what had transpired and I guess for the fact – rightly or wrongly – the fact that no issues had popped up during that process and I was comfortable that all had been communicated to both in-hand copies, in email copies – they all had access to myself. What purpose would that fill? I mean, there would have been lots of documentation that I was putting together over the course of that so in terms of the level of documentation, there was no distribution of minutes out to employees. It would have been a record of note as I'm going through this process to myself but as I reflect, towards the end of the process, 'What have I done, what steps have I taken'? If an employee had said to me, 'I was never advised of that', I could refer to notes. Yes, I just wanted to make sure I followed the process.

PN553

Then if you go down that page, Mr Read, and this is when you made the declaration in the application. It says: 'Do you have any supporting documentation for this question', and you answered, 'No'?---Where are we?

PN554

So if you go immediately before the table we're looking at, at page 50 - - -?---Yes, yes. As I completed the F17, yes – as I put in my stat there as an F17. I wouldn't have had that documentation. I mean, when we're talking about maybe I used the phrases of, 'minutes', too loosely. There's notes. There's – I have diaries. There's whatever my chosen form of keeping record diaries is, I didn't rightly or wrongly think it right to send out minutes or as I'm completing this F17, I know it's a year ago but I would have looked at what I compiled during that time, following the process. I probably didn't have anything of relevancy or formality that I thought right to put into that section.

PN555

May I ask you about the meeting on 19 September, please?---Yes.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN556

(Indistinct) in that box. When was that meeting held?---Where?

PN557

When on that day?---Yes, so that was – I mean, that would have been a – it was mid-morning, I think it was 9 o'clock. The guys start a bit earlier than that that day but, yes, 9 o'clock, mid-morning, so 9, 9.30.

PN558

Where was that held?---Yes, they were all held at Aitken Way.

PN559

Okay, and what did you do – what were the steps you took at the 19 September meeting?---So on the 19th, yes, that would have been – the guys would have had access to now post review the award and the EA, where any issues may have been present but that meeting was there to allow the guys to stop doing what they're doing and have a formal catch up as a group and raise any issues. That's the purpose of it.

PN560

And who was at that meeting?---Again, that was the guys working out of that office: Daniel, Mark and Vince.

PN561

Okay, and what about the balance of your employees?---Yes, they were – they were advised, I remember, later in the day where Mark had got them together and called through to me.

PN562

That's Mark Hudston?---Yes, correct.

PN563

Sorry?---Yes.

PN564

Then on 21 September, when was that meeting?---Same thing, same time, same process.

PN565

The exact same time?---Yes.

PN566

Okay. The same people?---Yes.

PN567

And the people who were not there - - -?---Yes, I was comfortable – I was comfortable that the conversations had been happening, as I've said, through the process of where these guys were, the level of conversations that were happening were consistent and I had obviously briefed Mark, trusted Mark that he'd had those levels of conversations and had confirmation that they'd been had.

PN568

And how did he confirm those matters with you?---We spoke through a phone call.

PN569

No email?---There may have been. But obviously through this process I was quite diligent in following things through so I would have – I would have spoken to, met up with Mark, obviously making time in my day that boxes were being ticked in terms of the guys having access to the right information. If anything I was hoping to have more and more resources for these guys to understand. I thought it would actually be of value to the process rather than dis-value, if that's the word, in terms of having somebody who they could openly talk to, bit of independence there that they can raise concerns, it comes back through to me. So I actually – I had taken that as an additional measure through this process, that there was more communication rather than less and the level of communication was coming from somebody with the ability to extract issues or clarify points. So I saw that as a value to me through this process.

PN570

Okay, can I ask you to turn briefly to page 51?---Sorry, can you say that again?

PN571

Can you please turn to page 51 in the bundle?---Yes.

PN572

And in describing the terms of the agreement, the effect of those terms, can I ask you to look at – so the question that you're responding to is at 24, a third of the way down the page?---Yes.

PN573

And then once you've had a chance to read that, if you go to the first row, which says: '15 September, 2022', in the first column, then in the second column it says: 'All employees'?---Mm-hm.

PN574

And then if you go about halfway down that box but it's the end of the first sentence and the beginning of the second sentence: 'This enabled me to explain the impact'?---Yes.

PN575

So that's not right, though, is it?---No, obviously I insisted on – I insisted on Mark to have those – have those conversations so I would have – I would have relayed that to Mark, about if we had been in deep conversations on this around what it – what it means for them. So, yes, by proxy he had those same level of conversations and I was comfortable.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN576

You said you were diligent about this process. What was your note-taking process in these matters?---Well, in terms of note-taking, I mean, we had copies of – physical copies – of the agreement with us. Obviously the guys did on the other

side with Mark. In terms of my diary notes and the way I went about things, would have been to – I guess in terms if there was formal queries raised that then needed to be communicated out to the wider audience of employees, absolutely there would have been a need for more formal documentation to go out and have responses and clarification of questions too. So for me, the notes taken would have been for my comfort, that at the end of the process I had ticked the boxes that I had put in front of myself to ensure at the start of this process that I had got it right, gave the matter good time, adequate resources, the right mature level of conversation to be able to respond to and raise any issues.

PN577

Do the documents you're referring to still exist?---No, I mean, we're talking – maybe. We're talking notes, we're talking diaries. It's a year ago. As I say, there was no wider communication that was done on email about any matters raised within those meetings or outside of those meetings. If there was – and I can't recall any – maybe around the levels: what's a C5 and a C4 and how does that relate to the award, into the agreement. Nothing that just wasn't a – that was raised that I felt needed to have been – there just were no issues. The guys obviously understood what was in there, the purpose for it, yes.

PN578

You sold Workforce Logistics to AusGroup Companies in December 2022. That's correct, isn't it?---Correct.

PN579

I'm sorry to do this. I have to ask you two more questions about the earlier topic so we're going back to the topic of the application. Did you disclose the professional relationship or the commercial relationship that you had with Mr Ruffino to the Commission when you made the application for the enterprise agreement?---Did I refer the relationship I had with Mr Ruffino? I don't believe I did.

PN580

When you made the application to the Commission for the enterprise agreement to be approved on 5 October 2022, did you inform the Commission of your earlier evidence, that none of the employees worked for Workforce Logistics anymore?---No, I hadn't. I didn't think that was a requirement.

PN581

You sold the Workforce Logistics company to AusGroup in December 2022, that's right?---Yes.

PN582

And at that time Workforce Logistics had no employees?---No, no.

PN583

At that time Workforce Logistics was not an operating company?---No, no, it wasn't, no.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN584

So how did AusGroup Companies become aware of Workforce Logistics?---Look, I had obviously put money into the business and tried to – to get that successful. Now, that sat dormant for – I don't know – a couple of months or whatever. It was becoming clear during – during – as I went through September, October, November, looking at these projects that kept getting pushed back and pushed back, that, yes, it wasn't going to be successful and it was – it was money put into the business that wouldn't get a return.

PN585

If I might ask my question again, how did AGC become aware of Workforce Logistics?---Oh, okay – so, yes, I was – I was approached by somebody within AGC. I think it was John or something, to – that potentially there was some value in it. Just to add some context, back in 2018 with Equipa, that had an in term non-union agreement and we used that for a year. At the time the business partner I had wanted to move – anyway, it's partly irrelevant but I think it needs to be heard. Pursued other business interests, wanted to move part of the business to Africa and et cetera, et cetera, I was very uncomfortable with the way that the business – the direction the business was going. He left the business but kept his shares. I couldn't trade like that. I was approached to sell Equipa. I couldn't tell you whether there was two and a half years left on the agreement, I don't know. It was an ordinary time, wrapping up a business that we had 30, 40, 50 employees on. I thought we could do quite well on and I wanted to replicate that. I had been offered at that time to sell Equipa for a monetary sum. I didn't – I didn't do it but what that did do is gave me, obviously somewhere in the back of my mind, that no there – there is some value and yes, I put that into VA when I just knew I couldn't operate that thing on my own, being Equipa. So I - - -

PN586

Understood?---I was open in potentially looking for opportunities to at least get some recompense for what I put into it.

PN587

Now you said you were approached by John from AGC. Is that John Werndly?---I don't remember the last name.

PN588

And what did he say to you when he approached you?---What, sorry?

PN589

What did he say to you when he approached you?---I had a – I had a phone call and yes, saying what's your intentions, what are you doing – and we, yes, we caught up.

PN590

What's your intentions with Workforce Logistics?---Yes. Correct.

PN591

How did he know about Workforce Logistics?---Well, I believe – yes, I believe - - -

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN592

MR POLLOCK: I'm not - how can this witness – how can this witness answer that question?

PN593

JUSTICE HATCHER: Well, do you know anything about how he might have known about Workforce Logistics, Mr Read?---Yes, well I guess maybe through the network I was looking to potentially wind it up or didn't know what to do with it. Whether I go for another project. I would have had those conversations around, yes. So that would have got back to them. I mean I was – I was called. I don't recall his last name, saying we should – yes, we should catch up.

PN594

VICE PRESIDENT ASBURY: Mr Read, when you say, 'Go for another project', which project were you going for in the first place? I mean it seems to – you can agree or disagree with this but it seems like you gave up relatively quickly between this agreement getting approved in December?---Yes, I can understand your statement there. Look, I was – I was pretty confident that I could pick up the - and that was to do some BHP maintenance work. I also had some contacts in some of the other major miners. Look, at the time last year, as you would see from my LinkedIn profile I wore a number of – number of hats in consulting, doing mergers and acquisitions, doing other things. I went from – I went from having – and then KI Health which started really taking off. So I went from having a focus on running and owning another labour hire business where I thought it was exactly the right time and had the right projects that I could get into, and then was busy. And I guess you make – you make calls with the KI Health side. Picked up some new contracts doing nursing bits. My mergers and acquisitions stuff was really taking off and I was stretched, and I really questioned myself about do I keep on going now, what projects do I look for, how much money have I got to put into this. What's the process from here. So with the intent of do I just leave it there and try again next year or once I've got over this hump of other work that I've got on. But my work is very cyclical. I can – it's sort of a feast of famine type thing. I rated myself to replicate sort of what I had with Equipa but without business partners this time. That's where I felt I went wrong. And I was – you know, I really wanted to do it earlier, to be honest, earlier than August last year, or 2022, cause I just saw the external market and the labour shortage and had plans for it. My bandwidth, even as the course of 23 in terms of where I take, you know, I had decisions to – decisions to make, just like I did with Equipa four or five years prior to that.

PN595

Again, Mr Read, you can agree or disagree with this but you had a company with an agreement and AGC had a big contract for 10 years on Chevron?---I – do I respond to that?

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN596

Well is there a connection?---Yes – no, look, there's no connection. I was not aware. I did not even draw the dots in terms of potentially where - what this was being used for. I don't have a connection within AGC to find out later on what it's

used for and where it's going. Yes, sure, I can understand the reason behind your comment. I'm not a part of that association. Not a part of that network and to be honest don't fully understand that space. It's not my space. I'm a mining and industrial guy with some construction slant, with some mergers and acquisitions stuff and run a health business.

PN597

JUSTICE HATCHER: How much did you sell the business for?---\$20,000.

PN598

Right, thank you?---Which gave me some of the recompense back on the expense put made – put into the business but not all of it.

PN599

MR GHOSH: Did John from AGC tell you why he was interested in buying the business?---No, my – just my thought process mostly off my experience from 2018 was someone else provide flexibility to – to I guess utilise the work that I would have gone through or may be continue on that – on that same path. But no, no detail other than, you know, the conversation around potential sale and would it interest me and have I got other – and then I guess it's a question for me and my family from then, what do I focus on. Do I try and keep going on other projects or do I continue on with my consulting work and come back to it. You know, I wasn't of any opinions and nor did I ask for them. Maybe in reflection, should I have? Yes, but I didn't understand there'd be – and probably still don't in terms of – in terms of its application, what it's being used for, where it applies. It's not been – it's not been something that I've focused on or reviewed or really understood until this – I guess this process takes us to where we are now.

PN600

Did you pay the employees' wages out of your own pocket?---Yes. As I – as I did and learnt a – in Equipa. And lost money out of that money. So the dice that you roll I was pretty darned confident of the project work that was going to come and whatever I did wrong along the way, but yes, I didn't have the funds to keep putting money into that entity to – in the longevity and I guess in terms of the engagement of the employees, I looked at the runway, looked at what I could do, thought how quickly I pull this together and on the end of it the choices to make.

PN601

When you sold the business to AGC did you provide them with the business' records?---Certificates of registration, I'm trying to think what's required in the business. Certificates of registration, things like MyGov records to make sure that I'd done what I was meant to do in terms of liabilities and yes, basic – that basic information.

PN602

May I take you to page 405 of the bundle, please?---Yes, got it.

PN603

And that's the activity statement for the company?---Sure.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH



PN604

Now may I ask you, for the purpose of my next questions, to note the income tax amount and the salary and wages amount?---Right.

PN605

May I take you then to page 406?---Yes.

PN606

Which is the page over, which is the business transaction account of Workforce Logistics from 29 August 2022 to 30 November 2022?---Yes.

PN607

Now can I take you to the entry – the entries begin about two thirds or halfway down the page. May I take you to the entry of 13 September?---Yes.

PN608

Which is direct credit. When his Honour asked you the question whether you funded this, that's payment from you to the business isn't it?---Yes, correct.

PN609

Now can I take you to the entry on 18 September?---Yes.

PN610

So that's a reference to a \$4250 credit, that says, 'Transfer from NetBank'?---Yes.

PN611

'Transfer Workforce Log'?---Yes.

PN612

Do you know where that money came from?---Yes, that would have been contribution from myself, either from – either straight out of my trust – would have been straight out of my trust account, basically came from the same account. I trade through my family trust. So in terms of the narrative it's, what, yes – you know I've got – yes, it's come from my own personal – my own personal funds.

PN613

May I ask you then to have a look at page 409, the final page of the bundle. Now can I take you to the entry at 19 December, which is a payment. Now that's the sale price, is it, of Workforce Logistics, that I can see?---Yes. Yes, it is. Yes.

PN614

Yes. Okay. And can I take you to the entry, the first entry for 23 December and that's the payment of the tax liability that I took you to earlier, isn't it?---Yes.

PN615

Now did you do that?---Yes.

PN616

So you made that transfer?---Yes.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN617

Okay. There are three further transfers immediately below that. One says, 'Disbursement'?---Yes.

PN618

The other says, 'Loan rep Black Jewel'?---Yes.

PN619

'Return of loan', and then, 'Return loan Black JE'?---Yes. Yes.

PN620

What were those payments?---So between the two entities, I mean I've lent Workforce Logistics money, all right?

PN621

Yes?---Which essentially is a liability to Workforce Logistics back to me whether I get it back or not. I mean I've conservatively drip-fed some money back out of there to get some recompense. I'm not shying away from it. I mean you put a fair bit of money into this and you'll try and get some back today just would have been helping me keep my head above water and make sure all my commitments to the ATO are met, as you can see there. Could I have done it in one lump sum? Probably, but, yes. Maybe as I say, my conservative nature would have been okay. You need – needs some funds, there's some money in the account, I mean, the Workforce Logistics was for all intents and purposes, our bank account being wrapped up. There would be zero liabilities left on the balance sheet for Workforce Logistics.

PN622

Now, based on the evidence you've given in relation to a Equipa, you knew that if you set up an enterprise agreement in this company, that you can sell it to someone else for value, didn't you?---That's a question of – that was never the intent. That was never the intent, but I had been offered – I have – to answer your question, yes. I have – I have been offered a sale of Equipa when I – but I chose not to take that. It wasn't really in my thinking until after I worked out that I hadn't won the projects, what am I going to do. Is there any use for this? Do we carry it on to someone with more energy? Change the directorship? Change the shareholding? Get other people involved? What do you – you know, what is the purpose of this entity? What are the options? You wrap it up? Do you get other people involved or you just move on?

PN623

Your Honour, that concludes.

PN624

JUSTICE HATCHER: Mr Ghosh, you didn't tender Tab 7 bundle about which you've just been asking the witness questions.

PN625

MR GHOSH: Didn't I?

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN626

JUSTICE HATCHER: We can deal with it later, but do you intend to tender that?

PN627

MR GHOSH: Yes, your Honour. If it's - - -

PN628

JUSTICE HATCHER: All right.

PN629

MR GHOSH: If it's convenient while the issue is being raised, to tender it now?

PN630

JUSTICE HATCHER: We'll come back to that.

PN631

MR GHOSH: Okay.

PN632

JUSTICE HATCHER: Can I just take you to page 305 of the bundle?---Yes, that's a great email, isn't it?

PN633

So, you've given notice to the employees about the commencing bargains and enterprise agreement and you see as a response from Mr Ruffino, the same day, I'm not sure what the second sentence means but he says, 'On behalf of the workers, I request an immediate 20 per cent pay rise'?---Yes. Yes, pretty - - -

PN634

'Or we're going out on grass.' This was a couple of days after he and the others had first been employed?---No, 31 August was the – was that date that I had handed out the NERR.

PN635

Yes?---Now, that's his poor choice of humour and I didn't -didn't enjoy that email, but you can ask him that in terms of his sense of – sense of humour. But he's trying to tell me that I've mucked up and not put an attachment on there, which I did the following morning. When did he send that? Yes, 10.30. I'm done by then. So I had to resend it the next day.

PN636

All right?---But in terms of his - - -

PN637

I think you've answered my question. We should take that as humour, should we? Not as a serious proposition?---No, it's not – look, I hope so. Yes, yes.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN638

All right?---As I say, when you've got such an important and formal process, you'd have to ask Vince why – why he chose to be a bit of smartalec about that,

but that's the type of character he is. And I don't expect anything less, but there's no seriousness behind it. But you'd have to get his word on that in case he did have the intent. But I can only tell you my version, that he's that type of character. But as I say, what I took out of that was, I stuffed up on the email and I had to resend it.

PN639

Right?---Which I did at midmorning the next day.

PN640

And one last question, the vote took place by SMS message? Is that correct?---What did, sorry? The – you mean the vote or - - -

PN641

The vote. The vote of employees in relation to the agreement took place by SMS message?---Yes, your Honour. Yes. They were done by SMS, yes.

PN642

So how did that work? Did each employer have to send you a message?---Yes, yes. So we had nominated the dates and the communication, our – that they had four or five hours to respond. So I sent a blanket text message to all employees.

PN643

Yes?---And asked from memory, your Honour, I think I had it maybe from 8 until 1 or 9 to 1 or something and between those time frames, I wanted to collate the responses of all employees.

PN644

Right.

PN645

VICE PRESIDENT ASBURY: So you sent the text message, Mr Read? Not Mr Hudston?---No, I sent it.

PN646

Okay?---And I think there should be a communication here that – that - sent prior to that, that what day the text would be coming out so they knew to expect. There was an email I believe along – as part of the process, around when I think it might have been when the voting rights were sent out.

PN647

JUSTICE HATCHER: Shall I take it that process involved each employee, in effect revealing their identity when they vote?---Yes, yes. So yes, on their mobile phones. A yes or no vote which I had taken screen shots of.

PN648

All right. Thank you. Mr Pollock, do you wish to ask the witness any questions?

PN649

MR POLLOCK: No questions, your Honour.

\*\*\* BLAKE ANDREW READ

XN MR GHOSH

PN650

JUSTICE HATCHER: All right. Is there anything arising from you, Mr Raftos?

**CROSS-EXAMINATION BY MR RAFTOS**

**[2.56 PM]**

PN651

MR RAFTOS: Your Honour, I'd seek to ask two questions. The first one is you ask the witness how much was Workforce Logistics sold for. I seek to ask the witness did he actually make any profit on selling? I think the evidence was \$20,000. And my question would be, did he make any profit?

PN652

JUSTICE HATCHER: I thought he'd already indicated that he hadn't?---Yes, I – to answer that, yes, there was no – no, no profit. It did compensate – well, recompense part of it – funds invested into it Workforce Logistics.

PN653

MR RAFTOS: And Your Honour, I'd just like to take the witness to page 50 of the bundle, which is Form F17.

PN654

JUSTICE HATCHER: Yes. Go ahead.

PN655

MR RAFTOS: Yes, your Honour. Mr Read was asked some questions about 19 September and 21 September. Essentially, Mr Read, Mr Hudston was acting on your instructions, wasn't he?---Yes.

PN656

In relation to those information sessions, is that correct?---Yes.

PN657

Thank you. I note - - -

PN658

JUSTICE HATCHER: Well, I don't think you should be leading, Mr Raftos.

PN659

MR RAFTOS: Well, I've - asked the question, your Honour. Which - - -

PN660

JUSTICE HATCHER: Yes, all right.

PN661

MR RAFTOS: Thank you.

PN662

JUSTICE HATCHER: Is that the question? All right. Is there anything arising from that, Mr Ghosh?

\*\*\* BLAKE ANDREW READ

XXN MR RAFTOS

PN663

MR GHOSH: No, your Honour.

PN664

JUSTICE HATCHER: All right. Thank you for your evidence, Mr Read. You're excused?---Thank you, your Honour.

PN665

And you may leave now, so we'll call the next witness?---Thank you.

<THE WITNESS WITHDREW

[2.57 PM]

PN666

MR GHOSH: Mr Ruffino.

PN667

JUSTICE HATCHER: All right. Look, can you get Mr Ruffino in, please.

PN668

THE ASSOCIATE: Yes, your Honour.

PN669

JUSTICE HATCHER: How long do you think we'll be with this witness, Mr Ghosh? I think we've covered most of the background so - - -

PN670

MR GHOSH: We have. I'm hoping to be a bit quicker. It may stem slightly beyond 4 pm.

PN671

JUSTICE HATCHER: That's not very encouraging.

PN672

MR GHOSH: Sorry, your Honour.

PN673

JUSTICE HATCHER: All right. Mr Ruffino, come into the witness box, please, and we'll get your details and administer the oath or affirmation. Sorry, we're not getting any sound from Perth, so - - -

PN674

THE ASSOCIATE: Would you please speak into the microphone? Can you state your full name and address?

PN675

MR RUFFINO: It's Michael Ruffino, (address supplied).

PN676

THE ASSOCIATE: Thank you.

\*\*\* BLAKE ANDREW READ

XXN MR RAFTOS

<MICHAEL RUFFINO, AFFIRMED

[2.59 PM]

EXAMINATION-IN-CHIEF BY MR GHOSH

[2.59 PM]

PN677

JUSTICE HATCHER: Mr Ghosh.

PN678

MR GHOSH: Thank you, your Honour. Mr Ruffino, I'm going to ask you a series of questions. I may take you to certain documents. They are contained in a file that should be sitting in front of you. Do you see that?---Yes.

PN679

And when I refer to page numbers in that file, I'm referring to the page numbers at the bottom of each page in the centre of the page. Do you see those?---Okay.

PN680

Mr Ruffino, you're the managing director of Diablo Industrial Services?---Yes.

PN681

And you're the founder of that company?---Yes.

PN682

When did you found the company?---2013.

PN683

How many employees work for Diablo?---Permanent employees, roughly around six of us, casuals in the range of about 10 to 12, some contractors.

PN684

Does Diablo have employees in other states?---At this point in time we do not. We have some contractors working for us in other states.

PN685

Do you have clients in other states?---Yes.

PN686

How much time in the average week do you spend working on Diablo related work or tasks?---All of my time.

PN687

Now, Diablo has premises at Unit 2, 1 Aitken Way, Kewdale, does it?---Correct.

PN688

Does Diablo own those premises or do they lease them?---They lease it from a self-managed superfund that owns it.

PN689

Do you know whose self-managed superfund that is?---It's – it's mine. It's my family trust.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN690

Now, from August/September 2022, Workforce Logistics was also based in those offices?---Correct.

PN691

Did Workforce Logistics lease that space from Diablo?---No.

PN692

What was the arrangement?---The arrangement was that we had space available and so we made it available.

PN693

JUSTICE HATCHER: And why did you do that?---At the time it just – it – I don't know, it was just something that we did.

PN694

DEPUTY PRESIDENT GRAYSON: Was your – as at the period August/September last year, what was the state of activity with your business? Were things busy or quiet?---My business was relatively quiet, sir. It had been the case for some time as a result of COVID.

PN695

Thank you.

PN696

MR GHOSH: Did Workforce Logistics have staff in your offices at Aitken Way?---Yes.

PN697

Approximately how many?---Other than myself, Mr Read mainly. Daniel Walters.

PN698

Okay. Did you share any staff or office – or other resources with – sorry. Did Diablo share any staff or other resources with Workforce Logistics?---No, just the building. Utilities. That was all.

PN699

Was Workforce Logistics ever a client of Diablo?---No.

PN700

Okay. Did Diablo ever provide any money to Workforce Logistics by way of loan or other contribution?---No.

PN701

What does Diablo Industrial Services do?---We are an installer of temporary road safety barrier systems.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN702



Okay, do you have any other activities?---No. Oh, excuse me, so we do – we do produce a road anchoring system.

PN703

And can I ask you to turn up page 101 of the bundle that's in front of you?---Yes.

PN704

Now, can I ask you to read the first paragraph under the word about? Actually, sorry, let me take a step back. Sorry, Mr Ruffino. This is your LinkedIn profile isn't it?---Yes, it is.

PN705

May I ask you to read the first paragraph under the word 'About'?---'Diablo Industrial Services is a solutions business delivering a variety of highly-specialised competencies and highly-customise services'.

PN706

Sorry, Mr Ruffino. I should have been clearer. I just meant for you to read that to yourself. I may have misstated that. I apologise?---Sorry.

PN707

Can I ask you to go to the second paragraph in that statement?---Yes.

PN708

It says, 'Our core business is microsourcing'?---Yes.

PN709

What is microsourcing?---This profile was written 10 years ago when I first started the business, and I was still doing consulting work. The profile itself has never really been updated. I haven't used it in quite some time. Microsourcing was just a term that I used for small outsourcing activities.

PN710

Do you mean labour outsourcing?---No. At that time, no, it wasn't. It was mainly consulting-type work.

PN711

What type of consulting?---Organisation development, management, pricing management, this development.

PN712

Now, you said at that time it wasn't that, but it moved into labour outsourcing or labour provision later, didn't it?---No. It's never done labour - well, in the very early days, it did some labour provision, I think. When I first started the business, I was asked to assist the company with the recruitment of four individuals for a project. They ended up taking them through me on labour hire, but it was a short-term arrangement. We've never done that since. That was back in 2013/2014.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN713

Okay. Can I ask you to look at the second part of that sentence in the second paragraph, and it's really - sorry, actually, it's the entire sentence, which is providing outsource - sorry. After the reference to micro-sourcing, it says, 'Providing outsource solutions for organisations looking to manage, improve, isolate or outsource critical business functions and processes where performance is foreseeably or historically problematic. What did you mean by critical business functions there?---The variety of services, some of those professional services.

PN714

What services fall under the word 'variety'?---Look, once again, mainly management services in most cases. In that time, for me was organisational development, pricing management.

PN715

And did pricing management include the management of labour pricing?---To a degree, yes. It was my background.

PN716

When you say it was your background, you've worked in that - what did you mean by that?---I worked as a pricing manager with Skilled Group and as a business development manager with them five and a half years prior to me having my own organisation, four/five and a half years, sorry.

PN717

And that's where you met Blake Read?---Correct.

PN718

And Skilled is a labour provision company?---It was, yes.

PN719

What do the words 'web performance is foreseeably historically problematic' mean?---That was directed mainly at organisations that had problems facilitating intermittent work. Once again, mainly directed at the type of work that I started doing when we started doing temporary barrier installations.

PN720

Now, from April 2019, you've engaged Blake Read as an independent contractor; is that right?---Correct.

PN721

Now, on his LinkedIn profile, it described it as being a commercial manager for Diablo. Do you - is that accurate?---That's correct, yes.

PN722

And what does he do in that role?---He takes care of accounting, and he handles other commercial aspects, leases, finance, insurances.

PN723

And he provides that, and then he sends Diablo an invoice, and you pay that invoice?---Yes.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN724

Okay. Now, did you work with Mr Read directly in that role?---Yes.

PN725

How frequently was your contact? Sorry. I'm asking a very general question. So perhaps I should ask it more specifically. On average between April 2019 and, say, the end of 2021, how often did you see Mr Read?---Look, in the office, if I didn't see him as a result of, say, COVID or whatever, Blake and I would probably speak every day.

PN726

And that was about his work for Diablo?---Yes.

PN727

Is Mr Read involved in the recruitment of personnel for Diablo?---No.

PN728

Did Mr Read discuss with you his plan to set up Workforce Logistics?---Yes.

PN729

When did that discussion take place?---I'm not certain.

PN730

Okay. Was - if I said to you it's early August 2022 or earlier - - -?---That's probably correct. Yes.

PN731

What did Mr Read tell you about Workforce Logistics in that meaning?---My understanding of it was that he was interested in starting a labour hire, and in order to do so, he was going to attempt to get an agreement.

PN732

Now, attempt to get an agreement - - -?---Well, at that time, yes.

PN733

An enterprise agreement; is that what you're referring to?---Correct.

PN734

Okay. And did he give you any more details about his plans for this labour hire business?---Not really, not at that time. No.

PN735

Okay. Did he ask you to assist in any way?---No.

PN736

Now, you came to work for Workforce Logistics in August 2022, didn't you?---Correct.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN737

How were you recruited to Workforce Logistics?---Blake specified that he had a need for certain trade skills, mechanical fitters being one of them, and at the time, I expressed some interest in that.

PN738

Did you meet with him about the job?---Sorry. Can you please repeat that?

PN739

Sorry. Did you meet with him about the job?---Yes.

PN740

What did you - what work did you do for Workforce Logistics after you were employed?---Some basic mechanical fitting work, working on shoots, et cetera.

PN741

Sorry. What are shoots?---Hard to explain. Basically transfer boxes for material handling.

PN742

JUSTICE HATCHER: So where did you do that work?---At Kewdale, sir.

PN743

And what equipment did you use?---Equipment that was there that was provided by our - well, provided by West Coast Site Services.

PN744

How is that connected to Workforce Logistics?---They were also working out of the units.

PN745

Yes, but you said you did mechanical fitting work, I thought, for Workforce Logistics. So how is this work for Workforce Logistics? I don't understand?---That was the work that we were doing.

PN746

Did Mr Read tell you to do that work?---Yes.

PN747

But how did that relate to the business of Workforce Logistics?---I suppose because of the trade qualifications of the - and that work. We were just working on it. Yes.

PN748

Sorry. With the greatest respect, Mr Ruffino, this doesn't make any sense to me. What connection did working on that equipment have to do with Workforce Logistics? Workforce Logistics was going to be a labour hire company and had just started up. How did this equipment come into the equation?---The work was already there. So we were allowing West Coast Site Services to use the space in the back of our workshop. That equipment was there, and that was the equipment that we worked on.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN749

I understand you worked on it, and you did it for another entity, but what was the connection to Workforce Logistics? It wasn't the equipment, was it?---No. It was work that they were doing for their customers.

PN750

Which customers?---Well, you mean West Coast Site Services customers?

PN751

No. What is the connection between this work and Workforce Logistics?---Sir, I don't really know the answer to that question.

PN752

You don't know the answer to that question. You were asked if you'd performed any work for Workforce Logistics while you were employed by Workforce Logistics. You remember that question?---Yes.

PN753

How is this work work for Workforce Logistics as distinct from somebody else?---That was the work that was assigned.

PN754

That was the work that was what?---Assigned.

PN755

By Mr Read?---Yes.

PN756

So was the company that owned this equipment his client?---Yes, I suppose it was.

PN757

How did that come about?---Mr Read and I are shareholders in West Coast Site Services which is how they came to be in the back of Kewdale.

PN758

So that was work you were doing as a shareholder of West Coast Site Services?---I suppose, yes.

PN759

It wasn't work for Workforce Logistics, was it?---Well, I was working for Workforce Logistics.

PN760

West Coast Site Services was not a client of Workforce Logistics, was it?---At that time, I don't know what that arrangement was.

PN761

All right. Thank you, Mr Ghosh.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN762

MR GHOSH: Thank you.

PN763

JUSTICE HATCHER: Is that site - before I - is that the only work that you did for Workforce Logistics?---Yes.

PN764

And how long did that work take?---It was just done over the period that I was employed by them. I hadn't done anything for them previously or after.

PN765

Okay. Go on.

PN766

MR GHOSH: So the President asked you how long the work took. I understood your answer to be during the duration of the period you were employed, but how long did the work itself take, the shoots that you had done?---It was continuous.

PN767

So you're working full time on shoots for four weeks, 38 hours a week?---Yes, mainly.

PN768

How many shoots were there?---I couldn't answer that question, but it was continued. There was - at the time, if I remember correctly, they had an order of them, and there were shoots coming in as they were being completed.

PN769

And that's West Coast?---Yes.

PN770

So may I ask you to turn to page 287 of the bundle?---Yes.

PN771

Did you recognise that document?---Yes.

PN772

What is it?---It's a contract of employment.

PN773

Now, that's the contract of employment you signed with Workforce Logistics, that's right, isn't it?---Yes.

PN774

Was that the only contract you signed with the company?---Yes.

PN775

Were there any side deals?---No.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN776

Any collateral arrangements?---No.

PN777

Any variations to this contract?---No.

PN778

You nominated yourself as the bargaining representative in relation to the workplace logistics enterprise agreement on 30 August of 2022, that's right, isn't it?--- Yes, I think so, yes.

PN779

And you were also nominated by Daniel Walters on 31 August 2022, that's right, isn't it?---I don't know if I was nominated by other people.

PN780

Okay. Did you know Mr Walters before you were involved in Workforce Logistics?---Yes.

PN781

How did you know him?---Mr Walters is the director of West Coast Site Services.

PN782

Do you know what work he does for West Coast Site Services?---He's a director of the company. I think he's obviously involved in managing it, business development. I think he's fairly hands on with supervision for work.

PN783

Does he do work for them at the Kewdale property?---No longer, but at the time, yes.

PN784

Was he working with you on the chutes?---Yes.

PN785

But you didn't speak to him about nominating you as the bargaining representative?---Not really, no.

PN786

Now, Mr Steven Biddle nominated you as the bargaining representative on 2 September 2022. Do you know Mr Biddle?---No.

PN787

You don't know him, at all?---No.

PN788

Now, Mr Alex Hudston nominated you as the bargaining representative, all at 476, on 2 September 2022. Do you know Alex?---No.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN789

So, you've never met Alex?---I don't think so.

PN790

Mr Paul Hudston nominated you as the bargaining representative on 2 September 2022. Do you know Mr Paul Hudston?---I have met Paul, yes.

PN791

When have you met Mr Hudston?---I think at one of the earlier meetings.

PN792

May I ask, when you say early meetings, early meetings of what?---About the agreement, the Workforce meetings that were held early.

PN793

Do you remember when those meetings were, Mr Ruffino?---I don't have anything in my calendar but I believe that there was a meeting, around about the 31st.

PN794

31 August?---Yes. Sorry, yes.

PN795

Okay, did you ask Mr Hudston to nominate you as bargaining representative?---No, I – no, I did not ask him, no.

PN796

What did you say to Mr Hudston at that meeting?---I met the man. I have no idea.

PN797

Is that the only time you can remember meeting him?---As far as I can recall, yes.

PN798

So, Mark Read nominated you as the bargaining representative on 31 August 2022. Do you know Mark Read?---Yes.

PN799

How do you know Mark?---Well, I know Mark through Blake.

PN800

Did you work with Mark at the Kewdale premises?---No.

PN801

Did you ask Mark to nominate you as the bargaining representative?---No, I did not ask him, no.

PN802

What did you understand your role as bargaining representative to entail or involve, Mr Ruffino?---My understanding, it was that a person needed to be nominated in case the group had any questions or any negotiations with regard to the agreement.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH



PN803

Okay, and did this group have any questions to you about the agreement?---No.

PN804

You understood that you were negotiating with Workforce Logistics on behalf of these workers, didn't you?---Yes.

PN805

Were there any actual negotiations?---I never received any questions or queries from any of the other workers. I suppose it went straight to a vote. No, not directly. I guess it was implied.

PN806

Did you ask for any changes to be made to the agreement?---No.

PN807

Now, can I take you to page 305 of the bundle?---Yes.

PN808

That's an email that you sent to Black Read and it's copied to Daniel Walters and it says, 'I nominate myself' – sorry, I'll let you read that email?---Yes, I'll - - -

PN809

It says, 'I nominate myself as the representative on behalf of the workers. I request an immediate 20 per cent pay rise or we're going out on the grass', do you see that?---Yes.

PN810

That was a joke, wasn't it, Mr Ruffino?---Yes. The email was intended to be a joke.

PN811

Can I ask you, when you sent this email were you in the eastern states?---No. No.

PN812

Can I take you to the top of the email, and can I take you to the line that starts, 'sent'?---Yes.

PN813

And it says, 'Wednesday, 31 August 2022, 10.31 pm'?---Yes.

PN814

Do you see that?---Yes.

PN815

Do you see, as we work down that email, there's a line that says, 'Sent from my iPhone'?---Yes.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN816

Which I understand means that you sent this email from your iPhone?---I suppose, yes.

PN817

And then do you see below that there's an email from Blake Read on the same day on 21 August at 2154, or 11.54 pm that he's written to you?---Yes.

PN818

And that's an email that you're replying to in the top part of the email?---Yes.

PN819

Now, on the face of that email, it appears that you have sent your reply before he sent the email that you're replying to, so my question is, were you in the eastern states when you sent this email?---I don't recall. I would have to verify that.

PN820

Did you travel to the eastern states after 25 August and before 23 September last year?---I think I went late in September.

PN821

Where did you go?---I'm not sure, most likely Melbourne.

PN822

Okay. Now, can I ask you again, were you in Melbourne during the term of your contract with Workforce Logistics, at all?---Yes, probably – yes, possibly at the back end of September, yes.

PN823

Did you speak to Mr Read about travelling to Melbourne?---I would have, yes.

PN824

Did you ask his permission to go?---I imagine that – yes, I imagine that that would have been arranged, yes.

PN825

If you'd just answer my question. It's did you ask his permission to go?---I imagine that I would have. I'm sorry, your Honour, I don't really – I don't recall.

PN826

Did Workforce Logistics ever make a MyLeave contribution on your behalf, to your knowledge?---Sorry, can you repeat the question? Did they - - -

PN827

Sorry, perhaps I should ask an earlier one. Do you know what the MyLeave system in Western Australia is?---No.

PN828

JUSTICE HATCHER: Mr Ghosh, let's just speed this up. You've already established the company didn't become registered under MyLeave until the following year. I don't think we need to do this, again.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN829

Okay, thank you, Mr President. So, I understand from your evidence, Mr Ruffino, that you never actually worked on a building site while working for Workforce Logistics, that's right, isn't it?---Correct.

PN830

Are you aware of AusGroup companies, a company called AusGroup?---I'm aware of them, yes.

PN831

Have they ever been a client of Diablo?---No.

PN832

Do you know they were a client of Workforce Logistics?---No.

PN833

JUSTICE HATCHER: How do you know of them?---They're a pretty well known company.

PN834

All right. Does Mr Read have any connection with them, to your knowledge?---Not to my knowledge, no.

PN835

MR GHOSH: Did Mr Read talk to you about selling Workforce Logistics in December 2022?---No.

PN836

I don't have any more questions, Mr President.

PN837

VICE PRESIDENT ASBURY: Mr Ruffino, can I ask, at this location at Unit 1, 1 Aitken Way, Kewdale, you've already said that North West Site Services Pty Ltd operated from there. Is that your evidence, it has some equipment there?---West Coast Site Services?

PN838

Yes?---Yes.

PN839

And the director of that or the owner of that company is Daniel Walters?---Yes.

PN840

Were there any other companies that operated out of those premises?---No.

PN841

So no other company is operating out of that Kewdale address?---No.

\*\*\* MICHAEL RUFFINO

XN MR GHOSH

PN842

JUSTICE HATCHER: Mr Ruffino, you voted to approve the Workforce Logistics Enterprise Agreement on 23 September, correct?---Yes.

PN843

That was also the last day of your employment at Workforce Logistics, wasn't it?---I don't recall.

PN844

You recall that you were only employed there for four weeks?---Yes.

PN845

And the contract you signed said you could only be employed for four weeks?---Yes.

PN846

So why did you bother voting in relation to the agreement when you knew it would never apply to you?---I guess because there was a vote and, yes, and just - just voted.

PN847

Did I understand you to say earlier that you had a discussion with Mr Read about him setting up Workforce Logistics and he said it was for the purpose of getting an enterprise agreement?---Loosely speaking we had numerous conversations about opportunities to do potential - you know, potential work or, you know, divest our interests.

PN848

Did you understand the purpose of setting up the company in your employment and the employment of the other five employees was to establish an enterprise agreement?---Yes.

PN849

Thank you. Do you wish to ask the witness any questions, Mr Pollock?

PN850

MR POLLOCK: Your Honour, just one question and it really is just to clarify one aspect of Mr Ruffino's evidence.

**CROSS-EXAMINATION BY MR POLLOCK**

**[3.37 PM]**

PN851

Mr Ruffino, you were asked a question by his Honour around whether or not you had disclosed the nature of your business relationship with Blake Read to the other employees, and I think your answer was that you hadn't, but that it was implied. How do you say that it was implied?---Well, Mr Walters was obviously aware of it. I would imagine that Mark Read was also aware of it. Look, I can't really say about the other guys. It was never really anything that came up.

PN852

Thank you.

\*\*\* MICHAEL RUFFINO

XXN MR POLLOCK

PN853

JUSTICE HATCHER: Do you have any questions, Mr Raftos?

PN854

MR RAFTOS: No, your Honour.

PN855

JUSTICE HATCHER: Anything in response?

PN856

MR GHOSH: No, your Honour.

PN857

JUSTICE HATCHER: All right. Thanks for your evidence, Mr Ruffino. So now you're excused and you're free to go?---Thank you.

<THE WITNESS WITHDREW

[3.38 PM]

PN858

JUSTICE HATCHER: All right. Can we get the next witness in?

PN859

MR GHOSH: Forgive me, your Honour, I'm not sure whether the next witness is available or not this afternoon. If they are then, yes.

PN860

JUSTICE HATCHER: You have until 10 past 4. So let's get him in and let's get him done.

PN861

MR GHOSH: Sure.

PN862

JUSTICE HATCHER: So can we get Mr Kimpton in, please, and get him in the witness box.

PN863

THE ASSOCIATE: Yes, your Honour.

PN864

JUSTICE HATCHER: So, Mr Raftos, is that the end of your role?

PN865

MR RAFTOS: Apologies, your Honour. Mr Kimpton is not my client. Tomorrow Mr Hudston is appearing I understand either via Teams or some other electronic method. I will seek leave tomorrow morning to also appear before him on the same terms.

PN866

JUSTICE HATCHER: All right.

\*\*\* MICHAEL RUFFINO

XXN MR POLLOCK

PN867

MR RAFTOS: But hopefully that's the end of my role today.

PN868

JUSTICE HATCHER: You can stay if you wish of course, but if you wish to be excused at this point you can leave if you want to.

PN869

MR RAFTOS: Thank you, your Honour. I think Mr Kimpton has counsel. So I may depart. Thank you.

PN870

JUSTICE HATCHER: All right. Can we get Mr Kimpton's details and administer the oath or affirmation, please.

PN871

THE ASSOCIATE: Could you please state your full name and address.

PN872

MR KIMPTON: Shane Francis Kimpton, (address supplied).

**<SHANE FRANCIS KIMPTON, AFFIRMED [3.40 PM]**

**EXAMINATION-IN-CHIEF BY MR GHOSH [3.40 PM]**

PN873

JUSTICE HATCHER: Mr Ghosh, you have half an hour with this witness.

PN874

MR GHOSH: Thank you, your Honour. Mr Kimpton, you're the chief executive officer at AusGroup?---That is correct.

PN875

How long have you been in that position?---Since July 2017. Currently on gardening leave, and finishing on the end of September with the acquisition of the business.

PN876

Who's acquired the business?---Altrad Services, a company out of France, has acquired the business.

PN877

Now, in around December 2022 AusGroup companies purchased a company called Workforce Logistics; that's right, isn't it?---That's correct.

PN878

You were aware of that sale?---Sorry?

\*\*\* SHANE FRANCIS KIMPTON

XN MR GHOSH

PN879

You were aware of that purchase by AusGroup companies, you were the CEO at the time?---Yes. Yes, I am, that's correct.

PN880

Do you know what the sale price was?---Yes, it was 20,000.

PN881

Okay. Now, at the time AusGroup companies bought Workforce Logistics that company had no employees and had no operations; that's right, isn't it?---That's correct.

PN882

But at the time it bought the company Workforce Logistics had an approved enterprise agreement; that's correct, isn't it?---That's correct.

PN883

Was the purpose of AusGroup companies buying Workforce Logistics to purchase the enterprise agreement that it had on foot?---No.

PN884

Okay. What was the purpose of buying the company?---The purpose of buying Workforce Logistics was an agreed strategy that AusGroup had to set up a labour hire company.

PN885

Let me unpack that a little bit. What was the strategy - can you describe that strategy in more detail, what was the plan?---The plan was we had COVID, we'd come through the COVID period. We were building a workforce up again. We had lots of recruiters that were changing jobs. We were looking at how we could get retention of recruiters, how we could support the rest of the Western Australian economy in regards to recruiting, and that was - the strategy was either to start up a company or buy a company to have a labour arm to support the rest of AusGroup, and external.

PN886

When you say the strategy is to set up a company that had a labour arm you're referring to the enterprise agreement, aren't you?---No, I'm talking about a recruitment business that if it had an enterprise agreement, great. If it did not, well we were continuing on to set up a labour business, labour arm business to support our businesses, our 10 other group companies.

PN887

JUSTICE HATCHER: Mr Kimpton, is it reasonable to say that the only thing that Workforce Logistics had of value was the enterprise agreement; that it otherwise had no clients, no business, no employees, no contacts, no goodwill. That's the only thing it had of value, wasn't it?---It was a business that was already set up. So that was an advantage. So rather than us setting it up. And having an enterprise agreement was an advantage as well.

\*\*\* SHANE FRANCIS KIMPTON

XN MR GHOSH

PN888

When you said it was set up you simply mean it had been incorporated?--- Yes, correct.

PN889

You could do that yourself for a few hundred dollars?---Yes, we could. Yes, we could. That was the other - as I've highlighted that was the other. We either set up something ourselves or we buy something, and we bought something, we bought a company that was set up.

PN890

Thank you.

PN891

MR GHOSH: Now, once you bought that company what did you do with it?---Again it began to set up the recruitment part of the business, and in actual fact two days after we bought the company AusGroup got sold to Altrad. So the strategy of setting up the business for a recruitment arm the business was sold and it had a new group CEO at that point in time. I was still the CEO of the business and the current plan was to have the labour arm of the business that ultimately is what it started off doing, like it was planned.

PN892

In relation to the sale of AGC to Altrad who did you deal with at Altrad?---Who did we deal with at Altrad? Well, it was through as any company sale, or most company sales it was through - so we had advisers, they had advisers, and ultimately it was out of France. Ran Oren was the group CEO out of France is who we were dealing with.

PN893

Okay?---That was two days after, around two days after, it was 22 December when AusGroup got sold.

PN894

The company was sold to Altrad on the basis in part that it had a labour arm in Workforce Logistics?---No. They bought - they bought all of the Australian entities, and that was one of the 10 Australian entities. The Singaporean entities had gone into administration. So administrators were involved.

PN895

What was the sale price?

PN896

JUSTICE HATCHER: Mr Ghosh, what is the relevance of this?

PN897

THE WITNESS: Yes, that's confidential.

PN898

JUSTICE HATCHER: Leaving aside it's confidential, I'm just wondering why it's relevant first of all.

\*\*\* SHANE FRANCIS KIMPTON

XN MR GHOSH



PN899

MR GHOSH: That's probably a fair objection. I can't answer that.

PN900

JUSTICE HATCHER: All right. Mr Kimpton, how did you become aware of the existence of Workforce Logistics?---Sorry, can you repeat that.

PN901

Yes. How did you become aware of the existence of Workforce Logistics?---So the - I became aware of it around - again I can't recall the exact date, but probably around November-ish last year. So again as I've highlighted we had the strategy to set up a labour hire company, and that process was going through. So at that point in time as we were going through the sale process that company emerged out of that, and that's how it came about.

PN902

But how did you become aware of its existence?---Through - so our HR, our HR and operations were tasked to actually either set up an agreement or find a company to purchase. So it was advised at that point in time that a company called Workforce Logistics was available, so that's how I found out.

PN903

Just break that down. Your HR was tasked with either setting up an enterprise agreement for labour hire or finding a company with an enterprise agreement for labour hire?---Again with the enterprise agreement obviously would have helped the situation, but it was find a company to purchase. Obviously at that point in time we were in administration, so we were prepared to go buying, but we had the strategy set and we were around getting that. So we'd moved forward around that.

PN904

And again do you know how the business became aware of Workforce Logistics, like - - ?---No, I'm not aware.

PN905

All right, thank you.

PN906

MR GHOSH: In the labour hire strategy was one of the clients that you sought to service through that labour hire business Chevron?---We've got 10 group companies, 10 companies with multiple agreements, and that - so the enterprise agreement that covered Chevron was not that one. It was - it was set up as a vehicle for the group, not for one individual client.

PN907

Has the group employed people under a Workforce Logistics enterprise agreement?---Yes.

PN908

How many people?

\*\*\* SHANE FRANCIS KIMPTON

XN MR GHOSH

PN909

MR POLLOCK: I'm sorry, before the witness answers the question can we just clarify which group are we talking about here; are we talking about AGC, are we talking about Altrad, what are we - - -

PN910

MR GHOSH: We're talking about AGC.

PN911

JUSTICE HATCHER: We're talking about AGC.

PN912

MR POLLOCK: Okay. Well, can that be made clear to the witness.

PN913

MR GHOSH: Sure.

PN914

THE WITNESS: Yes. So can you repeat that then.

PN915

MR GHOSH: So by reference to AGC the owner of Workforce Logistics - either AGC or Workforce Logistics as its subsidiary hired employees under the Workforce Logistics Enterprise Agreement, didn't they?---Yes.

PN916

How many employees did they hire under that agreement?---I could not tell you. I wouldn't know. Tens, multiples, probably under 20, 30, 40, I don't know.

PN917

And those - - -?---And that - - -

PN918

Sorry?---That's all right.

PN919

I cut you off, if you'd like to - - -?---Sorry?

PN920

JUSTICE HATCHER: So next question.

PN921

MR GHOSH: And those employees, some of those employees ended up working offshore with Chevron, didn't they?---Yes.

PN922

That's all I want.

\*\*\* SHANE FRANCIS KIMPTON

XN MR GHOSH

PN923

JUSTICE HATCHER: Mr Kimpton, prior to the purchase of Workforce Logistics had you had any prior relationship of any sort with Mr Blake Read?---No.

PN924

Never heard of him before?---Never heard of him before. I met him for the first time on the date of sale.

PN925

Thank you. Anything for you, Mr Pollock?

PN926

MR POLLOCK: No questions, your Honour.

PN927

JUSTICE HATCHER: All right. Thank you for your evidence, Mr Kimpton, you're excused and you're free to go?---Thank you very much. Thank you.

<THE WITNESS WITHDREW

[3.52 PM]

PN928

All right. So that's as far as we can take it today?

PN929

MR GHOSH: Yes, your Honour.

PN930

JUSTICE HATCHER: So who do we have tomorrow?

PN931

MR GHOSH: We have Mr Sadler and we have Mr Hudston as witnesses. I have conferred with my friend over the luncheon interval about whether it's appropriate, or our views on giving oral closings or written closing. I don't want to speak for him, but I'm certainly of the view that I think there would be benefit in a written closing with the benefit of having considered the evidence.

PN932

JUSTICE HATCHER: No, you will be giving oral closings tomorrow. Can counsel just wait while the Full Bench adjourns for a short period.

**SHORT ADJOURNMENT**

[3.53 PM]

**RESUMED**

[3.57 PM]

PN933

JUSTICE HATCHER: Mr Ghosh, can you explain what evidence of relevance Mr Sadler can be?

\*\*\*

SHANE FRANCIS KIMPTON

XN MR GHOSH

PN934

MR GHOSH: Well, in light of the evidence that has just been given from Mr Kimpton about time between which the purchase of Workforce Logistics was

made by AGC and the time at which it was sold, we consider that Sadler can give evidence as to - - -

PN935

JUSTICE HATCHER: Can you just hold on a sec. I'm just going to disconnect from Perth. All right. Look, to put it bluntly, Mr Ghosh, what are you trying to – with respect to Mr Sadler, what case there are you pursuing?

PN936

MR GHOSH: It's an extended limb of the current case theory, which is that - - -

PN937

JUSTICE HATCHER: Which is what?

PN938

MR GHOSH: Was that this agreement was set up and purchased for the purposes of hiring people on a baseline agreement offshore. And Altrad's - - -

PN939

JUSTICE HATCHER: So we've had no evidence of that yet.

PN940

MR GHOSH: That's true.

PN941

JUSTICE HATCHER: So you're just taking a punt that Mr Sadler might know something about that?

PN942

MR GHOSH: Yes, your Honour.

PN943

JUSTICE HATCHER: What do you want to say, Mr Pollock?

PN944

MR POLLOCK: Well, your Honour, two things. Firstly, what Mr Sadler might or might not say about those things, two purchases down the road bears not one jolt on the question of genuine agreement. To be frank, what we've heard today I think gives my learned friend plenty of runway to advance the arguments that he seeks to advance. And the second point is this. If my learned friend had a case to suggest that there was some kind of involvement as between Mr Kimpton or AGC and Altrad at that relevant point in time, those things would have been put to him. Of course they weren't. In my submission, there is no relevant evidence that Mr Sadler can give and certainly not relevant to the (indistinct) that are advanced.

PN945

JUSTICE HATCHER: Mr Ghosh, I mean it seems to me that this is just a fishing expenditure that you're hoping to find something which you haven't found yet. That is, there's no document which draws a link between Altrad and the making of this agreement is there?

PN946

MR GHOSH: No, there isn't between the making of this agreement. No, there isn't.

PN947

JUSTICE HATCHER: Well, why shouldn't we release Mr – what's his name?

PN948

VICE PRESIDENT ASBURY: Sadler.

PN949

JUSTICE HATCHER: Mr Sadler from the order to attend?

PN950

MR GHOSH: I don't have an answer to that question, your Honour.

PN951

JUSTICE HATCHER: All right. Look, we're going to set aside the order for Mr Sadler's attendance tomorrow. So we have the one witness commencing at 11 o'clock eastern time. 9 o'clock Perth time and then we'll go straight into oral submissions perhaps after a short adjournment.

PN952

MR GHOSH: Thank you, your Honour.

PN953

JUSTICE HATCHER: All right. Thank you. We'll now adjourn.

**ADJOURNED UNTIL WEDNESDAY, 30 AUGUST 2023**

**[4.01 PM]**

**LIST OF WITNESSES, EXHIBITS AND MFIs**

<b>EXHIBIT #1 TAB 4 OF THE APPELLANT'S BUNDLE .....</b>	<b>PN50</b>
<b>EXHIBIT #2 TAB 5 OF THE APPELLANT'S BUNDLE .....</b>	<b>PN50</b>
<b>EXHIBIT #3 TAB 6 OF THE APPELLANT'S BUNDLE .....</b>	<b>PN50</b>
<b>EXHIBIT #4 STATEMENT OF DOUG HEATH FILED 11/07/2023.....</b>	<b>PN55</b>
<b>EXHIBIT #5 MYLEAVE CERTIFICATE OF REGISTRATION FOR WORKFORCE LOGISTICS PTY LTD .....</b>	<b>PN60</b>
<b>BLAKE ANDREW READ, AFFIRMED .....</b>	<b>PN89</b>
<b>EXAMINATION-IN-CHIEF BY MR GHOSH .....</b>	<b>PN89</b>
<b>THE WITNESS WITHDREW .....</b>	<b>PN391</b>
<b>BLAKE ANDREW READ, RECALLED.....</b>	<b>PN391</b>
<b>EXAMINATION-IN-CHIEF BY MR GHOSH, CONTINUING .....</b>	<b>PN391</b>
<b>CROSS-EXAMINATION BY MR RAFTOS.....</b>	<b>PN650</b>
<b>THE WITNESS WITHDREW .....</b>	<b>PN665</b>
<b>MICHAEL RUFFINO, AFFIRMED .....</b>	<b>PN676</b>
<b>EXAMINATION-IN-CHIEF BY MR GHOSH .....</b>	<b>PN676</b>
<b>CROSS-EXAMINATION BY MR POLLOCK .....</b>	<b>PN850</b>
<b>THE WITNESS WITHDREW .....</b>	<b>PN857</b>
<b>SHANE FRANCIS KIMPTON, AFFIRMED .....</b>	<b>PN872</b>
<b>EXAMINATION-IN-CHIEF BY MR GHOSH .....</b>	<b>PN872</b>
<b>THE WITNESS WITHDREW .....</b>	<b>PN927</b>