



**QUEENSLAND HEALTH PAYROLL SYSTEM
COMMISSION OF INQUIRY**

Statement of Witness

<i>Name of Witness</i>	The Honourable Robert Swarten
<i>Date of Birth</i>	
<i>Address and contact details</i>	Known to the Commission
<i>Occupation</i>	
<i>Officer taking statement</i>	Caitlin Morgan
<i>Date taken</i>	/ /2013

I, Robert Swarten state;

Employment

1. I hold a Bachelor of Education and a Diploma of Teaching.
2. I was elected to the Legislative Assembly of Queensland in 1989 as the Australian Labor Party member for Rockhampton North. I remained in this position until 1992.
3. In 1995 I was again elected to the Legislative Assembly of Queensland as the member for Rockhampton.
4. I served as a Minister in the governments of Premier Beattie and Premier Bligh. I served as:
 - a. Minister for Public Works between 29 June 1998 and 21 February 2011;
 - b. Minister for Information and Communication Technology between 12 October 2006 and 21 February 2011;
 - c. Minister for Housing between 29 June 1998 and 26 March 2009; and
 - d. Minister for Racing between 12 February 2004 and 13 September 2006.

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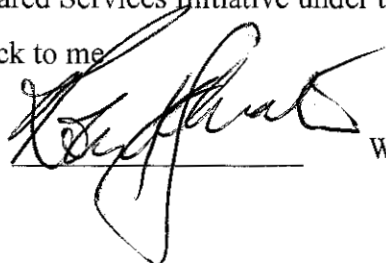
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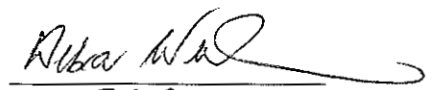
Department of Public Works Portfolio

5. Mr Mal Grierson served me in the role of Director General of the Department of Public Works from October 1998 to July 2011.
6. Ms Natalie McDonald served me in the role of Associate Director General of the Department of Public Works between May 2009 and July 2011. Ms MacDonald served as the Director General of the Department of Housing between 2004 and 2009.
7. On 1 July 2008 the transfer of CorpTech from Queensland Treasury to the Department of Public Works was effected.
8. Prior to the transfer of CorpTech to the Department of Public Works, I recall meeting with Premier Bligh to discuss its shift from Queensland Treasury. The Premier requested at this meeting that I take over responsibility for the payroll project as part of the Public Works portfolio.
9. As Minister for Information and Communication Technology, I was familiar with the Review of the Shared Services Initiative Report published in March 2007 by Dr Leo Keliher (Keliher Report). The Report identified a number of challenges with the Shared Services Initiative. I perceived the SSI to be lacking direction and the Keliher Report was critical of the advancements the program had made.
10. I was not enthusiastic about the transfer of CorpTech from Queensland Treasury to the Department of Public Works. I was aware that the Department of Housing had experienced difficulties with the implementation of the payroll project.
11. Soon after the transfer of CorpTech to the Department of Public Works, I recall meeting with Mr Grierson to discuss the progress of the payroll project. I requested that Mr Grierson conduct some due diligence with respect to the rollout of the Shared Services Initiative under the 5 December 2007 Contract ("SSI") and report back to me

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12. After that initial meeting, Mr Grierson and I met on a regular basis to discuss the payroll implementation. I understood that he and the Under-Secretary of Queensland Treasury, Mr Bradley, were also having regular discussions about the project.

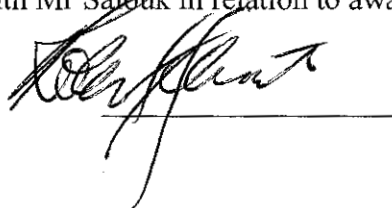
Site Visit – IBM Green Data Room

13. In September 2008 Mr Grierson and I travelled to the United States of America to visit IBM's Green Data Centre in Austin, Texas. This site visit took place on 19 September 2008. The purpose of the trip was to inspect the IBM Green Data Centre which was promoted as being a leader in the IT industry in terms of green technology and water-cooled data centres.
14. On 21 September 2008, Mr Grierson and I met with senior IBM executives in Washington. Lochlan Bloomfield was one of the IBM executives present at that meeting. A topic discussed at the meeting in Washington was an interactive polling system which had been developed by the IBM.
15. I recall Mr Grierson raising concerns at the Washington meeting in relation to the performance of IBM in relation to the SSI and the Queensland Health payroll implementation. I am not certain, but I believe Mr Grierson may have also raised this issue at the meeting in Austin, and followed it up in Washington.

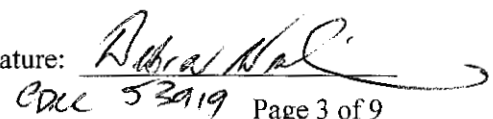
Meeting with Accenture – December 2008

16. I have been asked by the Commission about a dinner my wife and I attended with representatives of Accenture (Marcus Salouk, Brad Cable, Joshua Kennedy-White), held at Restaurant 98 in Rockhampton on 9 December 2008.
17. I do not have a specific recollection of this dinner, but I do not doubt that it occurred.
18. I have been asked by the Commission about a conversation I had at this dinner with Mr Salouk in relation to awarding the Prime Contractor role to IBM. I have

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no specific recollection of that conversation, but I do not doubt that Mr Salouk raised the issue.

19. Generally, if a contractor ever raised a concern with me about missing out on a contract, or abnormalities in a contract being awarded, I would typically refer that contractor to the relevant Director-General and ensure the contractor got to see the Director-General. As far as I am aware, those two steps occurred in the case of Mr Salouk.

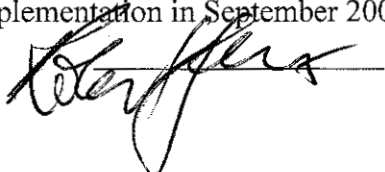
Performance of IBM as Prime Contractor

20. I met with Mr Grierson on a weekly basis. He would generally provide me with a briefing on Monday mornings, and we often met several other times in a week, and spoke on the phone regularly. I had a good working relationship with Mr Grierson and he briefed me regularly in relation to the payroll implementation.

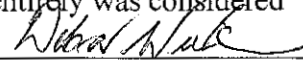
2009 – Re-scoping of the IBM Contract

21. I recall the Cabinet Budget Review Committee briefing note addressed to me dated 9 September 2009. The briefing note identifies that CorpTech had been unable to achieve the desired outcomes of the Prime Contractor model. The note records a recommendation for a new strategy by which IBM would not act as Prime Contractor beyond the completion of the Queensland Health payroll project.
22. I believe that Mr Grierson discussed the issue of the 're-scoping' of the IBM contract with me prior to this briefing note, although I can not recall the detail of those discussions. I considered Mr Grierson to be highly competent in the area of contract management. He identified to me on a number of occasions his belief that IBM could not fulfil the Whole of Government role they had been contracted to perform, and certainly not at the price they had originally quoted.
23. I recall that there was some consideration of removing IBM from the Prime Contractor role entirely. However, IBM were so far down the path of implementation in September 2009 that removing them entirely was considered

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by Mr Grierson and I to be too difficult. The Government had invested a lot in IBM. I believed that to stop them entirely and suddenly go into litigation or seek a replacement Prime Contractor would inhibit any progress being made.

24. Mr Grierson's view was that we had to get IBM in, read them the riot act and get them to re-engage and re-focus. I accepted that advice. The real risk, as I understood it, was if we threw IBM out entirely the whole payroll program would stop. I knew that LATTICE was soon to be unsupported and the project was time-critical.
25. On 21 September 2009 I endorsed a Cabinet Budget Review Committee Decision which recommended that IBM completed the implementation of the Queensland Health payroll system only.

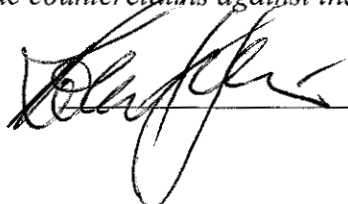
Dispute with IBM and Supplemental Agreement dated 22 September 2010

26. On 12 May 2010, acting on legal advice from Mallesons Stephen Jaques (Mallesons), the State of Queensland (State) issued to IBM a Notice to Remedy setting out certain contract breaches and requiring IBM to rectify these breaches.
27. Subsequent to the Notice to Remedy, IBM and the State exchanged a series of letters, with the State of Queensland responses being prepared with legal advice from Mallesons.
28. On 23 June 2010, Crown Law advised in a letter to Mr James Brown, E.D. of CorpTech (page 2):


"The State will ultimately need to decide whether or not to terminate the contract based on an assessment of these issues against the State's operational needs.

If the State chooses to terminate the payroll contract, a difficult and protracted dispute with IBM is likely, even more so if the State chooses to pursue damages or other remedies. Regardless of the merits or otherwise of IBM's case, IBM will almost certainly invest considerable resources in resisting such action in an endeavour to protect its financial position and, possibly its reputation. This may include counterclaims against the State."

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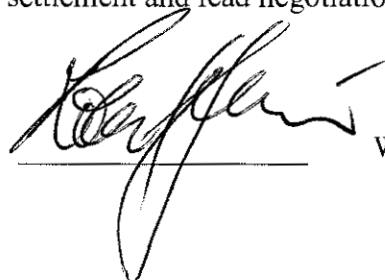

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29. On 29 June 2010, acting on legal advice from Mallesons and Crown Law, the State served IBM with a Notice to Show Cause why the contract should not be terminated.
30. By letter dated 6 July 2010, through its solicitors Blake Dawson, IBM provided its response to the State's Notice to Show Cause and formally submitted certain remaining deliverables.
31. On 15 July 2010 I received a submission from the Department of Public Works which recommended that the Attorney-General be notified of prospective significant litigation concerning the contract between the State and IBM.
32. On 20 July 2010 I wrote to the Hon. Cameron Dick MP, Attorney-General, pursuant to the Significant Litigation Directions approved by Cabinet in relation to the IBM contract.
33. On 21 July 2010, KPMG Advisory reported to the Department of Premier & Cabinet at page 3:

"IBM are (sic) continuing to play an important role in supporting the QH HR system, bringing expertise in the design and configuration of the system, knowledge of Workbrain, and critically the interface between Workbrain and SAP HR... Any option taken by Government in considering its contractual position with IBM needs to take into account the importance of maintaining continuity of the support currently being provided by CorpTech & IBM."

34. On 22 July 2010 I signed Cabinet Budget Review Decision No 3019 (Submission No: 3962) which records the State's decision to settle the dispute with IBM concerning the Queensland Health Payroll System and Cabinet's endorsement of that decision. Mr Grierson was authorised by Cabinet Budget Review Committee to seek a settlement and lead negotiations, pursuing settlement as a preferred option.

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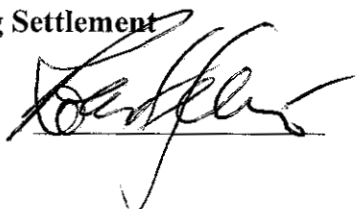


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35. On 16 August 2010 I received a response from the Attorney General to my letter of 20 July 2010. The letter records that the referral of the matter to Cabinet should be postponed until the outcome of settlement negotiations was known.
36. On 26 August 2010 I signed Cabinet Budget Review Decision No 3040 (Submission No: 3979) which:
- a. Recorded a strong desire by both IBM and the State to settle the dispute then on foot;
 - b. Approved the execution of a supplemental agreement to the GITC contract to formalise transitional arrangements between IBM and the State;
 - c. Noted that, in executing the supplemental agreement, the State's right to terminate the contract with IBM for material breach based on the Notice to Show Cause would be withdrawn and payment of the remaining contract monies would be tied to IBM's performance;
 - d. Noted that all payments would be tied to the delivery of the supplemental agreement; and
 - e. Authorised the Mr Grierson to act as the State's delegate in progressing the settlement negotiations.
37. I recall that a commercial negotiator from Clayton Utz was engaged by CorpTech to assist the Director-General with the settlement negotiations, although I can not recall the name of the negotiator who was engaged. I have no knowledge or recollection of how the settlement negotiations were conducted by Mr Grierson or any representative of Clayton Utz.
38. On 22 September 2009 the State and IBM entered into a Supplemental Agreement which detailed terms, conditions and payments due to settle and finalise the Queensland Health payroll contract (the Settlement).

Factors Informing Settlement

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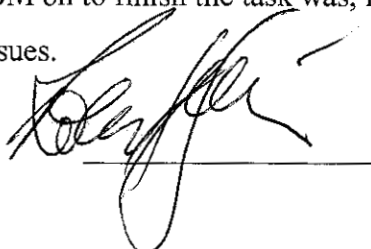
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39. Significant problems were experienced by the Department of Health from the go-live date of the payroll system in March 2010.
40. Once the go-live decision was made and defects were identified in the payroll system, there was a growing amount of public concern and complaint, as well as pressure in Parliament to have the issues with the system rectified. The only way to do that, in my view, was to keep IBM engaged and ensure they finished the project implementation. Every piece of advice I received on the issue was consistent with that view. I recall that KPMG made a recommendation in July 2010 to the Department of Premier and Cabinet which helped to inform my view.
41. In June 2010, the Auditor-General's Report to Parliament No. 7 of 2010 Information Systems Governance and Control was published. The Report made a number of findings which suggested that the payroll implementation difficulties and defects may have, in part, been caused by conduct of the State. The report specifically highlighted the lack of governance in the project.
42. My prime objective was to get the payroll project issues solved and ensure there were no further problems. I believed that removing IBM and its experienced contractors from the project presented a real risk and a risk that was not worth taking. The advice I received from Mr Grierson and KPMG in July 2010 was that there was an unsustainable risk in going down the path of litigation with IBM and the entire payroll system was in danger of collapsing. Based on this advice, I believed the State to be reliant on IBM to finish the implementation.
43. The Government was also under a significant amount of public pressure at the time of the settlement in relation to the failure of the payroll system. The failure of the system dominated talk back radio, media reports, union officials were decrying the Government and doctors and nurses were not getting paid. Keeping IBM on to finish the task was, in my opinion, critical to the resolution of these issues.

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This written statement by me dated 20-05-13 and contained in the pages numbered
1 to 43 is true and correct to the best of my knowledge and belief.

[Signature] Signature
Signed at [Signature] this 20th day of MAY 2013

Witnessed:

[Signature] 539.9
Signature
Name DEBRA WICKERSON 195 Upper Dawson Road
Allenstown, Q. 4700.
COMM DEC 539.9