

Report on misconduct by a senior biomedical engineer at Sir Charles Gairdner Hospital

23 January 2024



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OVERVIEW

- [1] Mr Suresh Kumar was a Senior Biomedical Engineer in the Bioelectronics Engineering Division of the Department of Medical Technology and Physics, part of the Sir Charles Gairdner Osborne Park Health Care Group , North Metropolitan Health Service (NMHS), until his employment was terminated on 23 November 2023.
- [2] Mr Kumar was responsible for the maintenance of medical equipment. This included preventative maintenance and repairs, ordering parts and submitting the orders for approval by his supervisor.
- [3] Doctors, nurses and their patients depended on him to keep vital machines in good repair. His supervisors trusted him fully in making decisions about purchasing and repairing equipment. Over a period of more than 12 months, from March 2022 to August 2023, he abused that trust, corruptly enriching himself by \$281,000.
- [4] Mr Kumar exploited a weakness in the hospital Electronic Medical Equipment Database (eMED). He registered a business name, Metaphor Medtronix Solutions (MMS), and added it to eMED as a supplier. He then sent requests for quotes to himself as MMS and responded with a quote. Mr Kumar created a website which purported to show MMS was an established company. In fact, it was a business name registered to Mrs Pankaj Kumar, his wife, as a sole trader.
- [5] His supervisors approved each purchase requisition initiated by Mr Kumar. No one ever checked the provenance of MMS. It was a perfect circle.
- [6] It is suspected that Mr Kumar spent some of the money he obtained on gambling and crypto currency.
- [7] The Commission received an anonymous complaint about Mr Kumar. Any person may report suspected misconduct to the Commission. After assessing the allegations, the Commission formed Operation Kiama to investigate. The scope of Operation Kiama was limited to the actions of Mr Kumar. The NMHS fully cooperated with the Commission's investigation and the Commission acknowledges its considerable assistance. Records were obtained and interviews conducted. Mr and Mrs Kumar were examined under oath on 12 September 2023.
- [8] The Commission assessed Mr Kumar's evidence as generally evasive, false or both.
- [9] In the Commission's opinion, Mr Kumar's actions in setting up MMS, purporting to trade with Sir Charles Gairdner Hospital, and receiving

\$281,000 were corrupt actions done for his own financial benefit. They constitute serious misconduct.¹

¹ *Corruption, Crime and Misconduct Act 2003* (CCM Act), s 4.

CHAPTER 1

Mr Suresh Kumar and his role in Sir Charles Gairdner Osborne Park Health Care Group

- [10] Bioelectronics engineering plays a vital role in caring for patients at any modern hospital. If equipment is defective, or in need of repair, patients may die.
- [11] Doctors and nurses at Sir Charles Gairdner Hospital (SCGH) rely on the Bioelectronics Engineering division staff of 20 to repair and maintain medical devices and equipment. The Bioelectronics Engineering division is responsible for ensuring that supported medical devices are maintained and repaired to manufacturers' specifications. This is important for patient safety. The Bioelectronics Engineering division sits within the Department of Medical Technology and Physics (MTP).
- [12] The Bioelectronics Engineering division has a supervisor and when that supervisor is absent, a team leader acts as supervisor. Both have authority to approve requisitions for parts and other equipment and repairs in eMED. To provide support for the biomedical equipment, the supervisor relied on three team leaders. One of those leaders was Senior Biomedical Engineer Mr Suresh Kumar. On some occasions, Mr Kumar acted as supervisor, approving quotations.
- [13] There is no suggestion of misconduct by the supervisor or acting supervisor and it is not in the public interest to name them in this report.
- [14] Mr Kumar is 43. He has a bachelor's degree in electrical and electronics engineering.
- [15] Mr Kumar is married to Mrs Pankaj Kumar. Mr and Mrs Kumar moved to Australia in 2010.² Shortly thereafter, Mr Kumar commenced work at the NMHS.³ Apart from a period at King Edward Memorial Hospital, Mr Kumar was based at SCGH.⁴ Mrs Kumar was also employed by NMHS as an administrative support officer.⁵
- [16] To avoid confusion this report will refer to SCGH throughout even though some functions were performed for NMHS.

² S Kumar transcript, private examination, 12 September 2023, p 3.

³ S Kumar transcript, private examination, 12 September 2023, p 3.

⁴ S Kumar transcript, private examination, 12 September 2023, p 3 - 4.

⁵ P Kumar transcript, private examination, 12 September 2023, p 3.

[17] Staff in the Bioelectronics Engineering division rotate through areas within the medical facility. In the period 2022-23, Mr Kumar covered the catheterisation laboratory and cardiovascular medicine.⁶ Mr Kumar's tasks included product evaluation, ordering stock and repairing machines either himself or arranging repairs and maintenance by the suppliers of that equipment.⁷

[18] The catheterisation laboratory conducts angiography and angioplasty and uses radiation equipment and monitoring systems connected to the patient during the procedure. In his examination under oath Mr Kumar explained his responsibilities:⁸

... I was covering certain areas so all the equipment in those areas that was coming into my responsibility. So all the, say, monitoring system in those areas and cath labs, monitoring systems, ultrasound machines and CO₂ modules - which is a carbon dioxide modules - and patient monitoring modules, intra-aortic balloon pumps, electro-surgical units, humidifiers, respiratory units, ventilators, patient warmers...

Most of the machines are done inhouse, but some of the equipment are on managed contract as well. Like cath labs, because that's a big equipment monitoring system we look after ourselves. But some modules like (indistinct) systems, 3D-mapping system, Rhythmia system, they are – they go on service managed – managed service contract from the manufacturer.

So the ones that you do inhouse, do you personally go to those machines and repair them?---Yes.

[19] A machine such as an ultrasound may have a service contract attached to it for annual service, comprehensive services and preventative services.

[20] Some service is done in-house:⁹

So suppose if there's a preventive maintenance of some monitoring system modules where we check, like, the ECG and pressures and (indistinct) pressures and those kind of things of the patient that we do inhouse, and whenever it's required we just usually do – start a workshop in the hospital.

[21] Mr Kumar's job description form reflects his evidence:¹⁰

- Provide a specialised level of professional/technical leadership and support in the field of Biomedical Engineering. Using the concepts of Science, Technology, Engineering and Mathematics (STEM) design,

⁶ S Kumar transcript, private examination, 12 September 2023, p 6.

⁷ S Kumar transcript, private examination, 12 September 2023, p 6 and 01539-2023-0035 - NMHS Job Description Form - Senior Biomedical Engineer.

⁸ S Kumar transcript, private examination, 12 September 2023, p 8 - 9.

⁹ S Kumar transcript, private examination, 12 September 2023, p 10.

¹⁰ 01539-2023-0035 - NMHS Job Description Form - Senior Biomedical Engineer.

construct or modify specialised mechatronic equipment for medical, clinical or research use.

- Manage and execute maintenance, repair, quality assurance and performance testing on a wide range of mechatronic medical and scientific electronic equipment. This may include involvement on a rotating basis in critical care needs.
- Prepare purchase/tender documentation and business cases for new or replacement medical equipment, coordinating with client departments, private vendors and government departments as required.
- Be available continuously on pager or mobile during working hours, and to participate in the Department's after-hours emergency maintenance service (including provision of service to critical care departments), as required on a roster basis.
- Ensure maintenance of an accessible, timely and comprehensive computerised logging of quality assurance, maintenance and upgrade work on items of mechatronic medical and scientific equipment, accurately reflecting the expenditure of labour, parts and consumables.

[22] Mr Kumar was completely trusted by the supervisor:¹¹

So, that's where he had the full trust. I just, listen go and do what you go to do, make sure the equipment is working, make sure there is no issues, I know we need to spend money, so I did say listen, whatever money you need to spend to keep certain devices working, whatever it is, just make sure it works and it's working safely because at the end of the day we're dealing with patients' lives.

[23] Mr Kumar generally did not have authority to order parts or other equipment without approval from a supervisor. However, if both supervisors were unavailable, Mr Kumar was next in line to approve requisitions and on occasion did so.

[24] When considering whether to approve a requisition, neither the supervisor nor acting supervisor gave attention to the identity of the proposed supplier. This oversight was exploited by Mr Kumar for gain.

The eMED database

[25] SCGH has a database to keep track of medical equipment. It is called the Electronic Medical Equipment Database or eMED. As well as eMED being a

¹¹ The supervisor transcript, record of interview, 9 October 2023, p 10.

database to keep track of medical equipment, it is also used in part to manage MTP purchasing. All biomedical engineers and most staff in MTP have access to eMED. It has developed over the years.

- [26] eMED is not presently widely used in NMHS but is used at SCGH.
- [27] When stock is exhausted eMED will automatically generate a requisition.
- [28] If a technician or biomedical engineer wishes to order a part that is not in stock, they obtain a quote from a supplier. A quote can also be obtained, upon request, by the MTP purchasing officer. An engineer with the required access is free to add a supplier to eMED. No enquiry is undertaken or approval necessary.
- [29] Procurement of goods and services is a necessary function of government. Unless proper controls are in place, it may be a serious misconduct risk.
- [30] As a minimum, good procurement practice requires the State agency to establish processes to manage risk and to verify the identity and consider the expertise of the vendor of goods and services. Because any engineer with the necessary access could add a new supplier to eMED, the requirement for verification is absent.
- [31] A quote and order requisition for parts raised by the MTP purchasing officer is submitted for approval within eMED to the supervisor. Once approved, the requisition is processed by the MTP purchasing officer where it is updated in eMED and entered into the WA Health Oracle procurement system (iProc). Approval for each requisition is provided within the iProc system by a listed NMHS approver for the relevant cost centre. They consider a requisition for approval on the basis of sighting the approved quote that is attached within iProc.
- [32] Health Support Services, which manages the Oracle system, then generates a purchase order which is sent to the supplier. HSS also processes invoice payments to suppliers.
- [33] A similar process is used for ordering maintenance and repairs from suppliers. A work order is raised in eMED by a technician, engineer or relevant staff member and a quote obtained that is then submitted for approval.
- [34] eMED is an efficient database but has a misconduct risk exploited by Mr Kumar.
- [35] Anyone connected with eMED, who possesses the required access permissions, can enter data. Mr Kumar created the business name Metaphor Medtronix Solutions (MMS) and added it as a supplier to eMED.

Simple as that. No criteria were required for adding a new supplier to eMED. There is no prerequisite to identify or assess what the trading entity was. Had this been part of the eMED policy, an enquirer would have discovered a connection with Mrs Kumar, whose name was on the business name registration and who had sole trader status. No enquiry was conducted as to the financial stability of the entity, nor of its expertise in the technical subject matter of its business. It was unknown if the entity had adequate product liability insurance. In fact, it had no insurance of any kind.¹² Further, there was no secondary approver required before a supplier was added to eMED.

¹² S Kumar transcript, private examination, 12 September 2023, p 25.

CHAPTER 2

Metaphor Medtronix Solutions: A mirage

- [36] Mrs Kumar has a master's degree in business administration and works as an administrative support officer part time.¹³ She claims she is not a business woman and left matters of the business to her husband.¹⁴ In her evidence, which the Commission accepts, although she registered as a sole trader she had nothing to do with the entity created by Mr Kumar, and was not an active user of any bank account attached to it.¹⁵ Her concern was that nothing should jeopardise their respective employment at SCGH or NMHS.¹⁶
- [37] Her concern was well founded. Both have now been terminated from their positions.
- [38] On 1 March 2019, Mrs Kumar registered as a sole trader, under her own name, and acquired an Australian Business Number .¹⁷ The stated purpose of the entity was: 'Building and other industrial cleaning services'.¹⁸
- [39] Mrs Kumar gave evidence as to the reasons for the registration:¹⁹
- I never thought of any business, but it was my husband who wants to do it, and for many years, he was trying to you know, do any business or something. But he couldn't do that, as per our understanding. I'm not sure whether we were wrong or something, but as per our understanding, he was working full-time, so he can't do any other job or any other business, maybe due to tax things as well. But I wasn't working full-time, so I could – well, what we think, we could start a business. If he wants, I can give my name.*
- [40] It would appear little, if any, trading took place until March 2022.
- [41] On 3 March 2022, in his wife's name and using her Australian Business Number, Mr Kumar registered a business name - Metaphor Medtronix Solutions.²⁰ He created an elaborate website portraying MMS as an apparently substantial business.
- [42] A Commonwealth Bank business account was opened by Mr Kumar. Records obtained from Commonwealth Bank identify that the MMS

¹³ P Kumar transcript, private examination, 12 September 2023, p 3 and 9.

¹⁴ P Kumar transcript, private examination, 12 September 2023, p 9.

¹⁵ P Kumar transcript, private examination, 12 September 2023, p 10 and 13.

¹⁶ P Kumar transcript, private examination, 12 September 2023, p 12.

¹⁷ 01539-2023-0003 - Australian Business Registry - Non-Public Data.

¹⁸ 01539-2023-0003 - Australian Business Registry - Non-Public Data.

¹⁹ P Kumar transcript, private examination, 12 September 2023, p 11 - 12.

²⁰ 01539-2023-0009 - Business Name Details and S Kumar transcript, private examination, 12 September 2023, p 18.

business account verification was completed by 'Digital Self Service' on 8 March 2022. Mrs Kumar is a signatory only from the perspective that the account was created in her name, as the sole trader.

- [43] Only Mr Kumar had access to the account. Over the next 12 months the account was used to receive money from NMHS. Money was withdrawn for Mr Kumar's private purposes. MMS traded with no other major entity. The majority of money received by Mr Kumar through MMS was from purported sales to SCGH.
- [44] MMS was a mirage. It was not the real business as portrayed on its website. It was no more than a vehicle which Mr Kumar used to funnel money from NMHS to his own pocket.

How the scheme worked

- [45] Because he was able to add MMS as a supplier in eMED, Mr Kumar created a closed circle. As a Senior Biomedical Engineer, Mr Kumar sought a quote from himself trading as MMS for the supply of either parts, preventative maintenance or repairs. He then responded to himself using a false name. The name Bagga Adams, amongst others, was often used. 'Bagga' is a nickname given to him by his father. Mr Kumar was corresponding with himself, creating an email trail of an apparently genuine arm's length transactions when, in reality, he was transacting with himself.
- [46] Mr Kumar sometimes arranged for packages to be posted to SCGH. Packages were received by SCGH from MMS, however the contents of these packages, if any, remains unknown. Mr Kumar would often endorse receipt of the ordered items and send an invoice to SCGH for payment.
- [47] No one else was involved. It was a perfect closed circle. The scheme would have failed if there had been proper controls on registering suppliers and rigorous review of purchase requisitions.
- [48] An example (from many) is found in an email of 16 March 2022, less than two weeks after MMS had been registered.²¹

²¹ 01539-2023-0100E - Email Chain from B Adams to S Kumar dated 16 March 2022.

Quotation

From: Metaphortronix Team <admin@metaphortronix.com>
To: Kumar, Suresh <Suresh.Kumar@health.wa.gov.au>
Sent: March 16, 2022 2:37:59 PM AWST
Received: March 16, 2022 2:38:15 PM AWST
Attachments: Metaphor Medtronix Solutions Quote 2 SCGH.pdf

CAUTION External Communication: This email originated from outside of the organisation. Do not click links or open attachments.

Hi Suresh,

Sorry for our late reply. Please find the quotation of the parts you requested. Let me know if we can be of any other assistance. Please accept the Quote and send the PO to us (preferably by email) if you want to proceed with the order.

Regards,

metaPHORTRONIX Team

Bagga Adams - Sales



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[49] At various times, in order to further the illusion that MMS was a substantial entity with staff, in addition to Bagga Adams, Mr Kumar used the aliases:

- Lee Hopkins;
- Sam; and
- Olin.

CHAPTER 3

Mr Kumar approves his own orders

[50] On 15 November 2022, when the supervisor and acting supervisor were unavailable, Mr Kumar was asked to act in the supervisor position.

[51] At 6:43am, the supervisor emailed Mr Kumar:²²

Suresh can you cover for me today as [the acting supervisor] is sick.

[52] Mr Kumar agreed. Mr Kumar knew there were two outstanding MMS purchase requisitions awaiting approval in eMED.

[53] At 11:06am, Mr Kumar emailed the MTP purchasing officer:²³

Can you send me the requisitions to authorise for purchasing in [the supervisor] and [acting supervisor's] absence.

[54] At 11:07am, the MTP purchasing officer responded via email to Mr Kumar:²⁴

The following Purchase Requisition/s are Awaiting Authorisation

- *Metaphor Medtronix Solutions - \$12891.40*
- *Metaphor Medtronix Solutions - \$15641.60*

[55] At one stroke Mr Kumar then approved the two outstanding requisitions and was in a position to authorise eMED initiated procurements from SCGH to MMS in the sum of \$28,533.00 (ex GST).²⁵ Naturally, he took the opportunity to enrich himself.

[56] Both purchase requisitions are recorded in eMED as being requested by Mr Kumar on 15 November 2022.²⁶ Each requisition was raised using MMS Quotes 'QUO-20' (one probe) and 'QUO-21' (two transoesophageal (TOE) probes), both prepared by Mr Kumar and dated 14 November 2022.²⁷

[57] Following his approval in eMED, at 11:09am on 15 November 2022, Mr Kumar emailed MMS in connection with the three faulty probes, which

²² 01539-2023-0101E - Email Chain from the supervisor to S Kumar dated 15 November 2022.

²³ 01539-2023-0101E - Email Chain from S Kumar to MTP purchasing officer dated 15 November 2022.

²⁴ 01539-2023-0102E - Email from MTP purchasing officer to S Kumar dated 15 November 2022.

²⁵ 01539-2023-0101E - Email from MTP purchasing officer to S Kumar dated 15 November 2022 and 01539-2023-0105 - eMED Table of MTP requisition from MMS.

²⁶ 01539-2023-0105 - eMED Table of MTP requisition from MMS.

²⁷ 01539-2023-0088 - MMS Quote No. QUO-20 dated 14 November 2022 and 01539-2023-0089 - MMS Quote No. QUO-21 dated 14 November 2022.

had purportedly been provided to MMS on 14 November 2022 for the purpose of obtaining quotes for repairs.

- [58] Mr Kumar asked 'Bagga' to complete Goods Advice Forms to confirm MMS had possession of the probes:²⁸

Hi Bagga,

Our purchase dept. will be sending you GA's for the probes with you. Can you please sign and return to us ASAP? We will be processing the PO soon as per quotes received.

- [59] In respect of one of the TOE Probes purportedly requiring repair, identified as Model VS6, Serial Number 86736, the associated NMHS Goods Advice Form (GA-009779) shows that this probe was received by Bagga Adams on 15 November 2022.²⁹ The other probe also subject to MMS Quote QUO-21 was not accounted for on the Goods Advice Form.

- [60] Mr Kumar claimed that he took the TOE Probe home in a box.

- [61] His first response to the question 'where did you fix it' was:³⁰

It was fixed at home.

- [62] He then amended this answer to claim that he did not repair it. He gave it to the supplier ProbeLogic Pty Ltd (ProbeLogic) for repair by attending in person to drop it off, filled in no paperwork and gave it to an engineer he knows but can't remember his name.³¹

- [63] His explanation further stretched credibility. After claiming that ProbeLogic normally charged NMHS \$700-\$1,000 for each probe assessment it conducted, the following occurred:³²

Did you yourself pay ProbeLogic?---Yes.

So, did they charge you \$700 too?---No.

What did they charge you?---They didn't charge me anything for assessment.

Some phoney invoices

- [64] Operation Kiama has examined every quote, invoice and payment relating to MMS. This report deals with some of those documents to illustrate the dishonesty involved.

²⁸ 01539-2023-0104E - Email Chain from S Kumar to B Adams dated 15 November 2022.

²⁹ 01539-2023-0104E - Email Chain from S Kumar to B Adams dated 15 November 2022.

³⁰ S Kumar transcript, private examination, 12 September 2023, p 36.

³¹ S Kumar transcript, private examination, 12 September 2023, p 38.

³² S Kumar transcript, private examination, 12 September 2023, p 38.

- [65] Invoices numbered 18,³³ 19³⁴ and 28³⁵ are for 'repairs' for two TOE probes (Invoice 18), an ultrasound probe (Invoice 19) and another TOE probe (Invoice 28).
- [66] The invoices total \$42,357.85. The invoices do not show hours or time spent on each task. No rate per hour is shown. There are no MMS business records confirming that the purported repairs were ever performed. The MMS business records show no transactions matching the descriptions and amounts paid for parts.
- [67] On 15 November 2022, MMS quote QUO-20 was also approved by Mr Kumar for:³⁶
- Water ingress and motor fault repair of probe iE33*
- [68] No signed Goods Advice Form was identified for this item.
- [69] Mr Kumar said he also took the probe to ProbeLogic for repair. He claimed ProbeLogic charged for the repairs. There was no paperwork. He paid cash. He doesn't remember the name of the person paid.³⁷
- [70] ProbeLogic has no record of these alleged cash transactions with MMS or Mr Kumar.³⁸
- [71] The Commission is satisfied no such transactions occurred. Mr Kumar's explanation is not credible.

Parts not supplied

- [72] InMed Healthcare Pty Ltd (InMed) sells equipment to SCGH.
- [73] On 22 August 2022, MMS received a quote addressed to Bagga from InMed for two Digitrak Holter 48 Hour digital recorders and ten Digitrak patient cables.³⁹ The total value was \$7,382.04 (inc GST).
- [74] Mr Kumar accepted the quote by forging his wife's signature because MMS was registered in his wife's name.⁴⁰

³³ 01539-2023-0058 - Metaphor Medtronix Solutions Invoice 18 dated 23 November 2022.

³⁴ 01539-2023-0059 - Metaphor Medtronix Solutions Invoice 19 dated 21 November 2022.

³⁵ 01539-2023-0066 - Metaphor Medtronix Solutions Invoice 28 dated 9 June 2023.

³⁶ 01539-2023-0088 - MMS Quote No. QUO-20 dated 14 November 2022.

³⁷ S Kumar transcript, private examination, 12 September 2023, p 40.

³⁸ Email from ProbeLogic Pty Ltd to the Corruption and Crime Commission of Western Australia, 3 October 2023.

³⁹ 01539-2023-0106E - InMed Healthcare Pty Ltd Quote No. SQ19352 to B Adams, MMS dated 22 August 2022.

⁴⁰ S Kumar transcript, private examination, 12 September 2023, p 46.

[75] On 1 February 2023, MMS invoiced SCGH for the supply of two Digitrak Holter 48 Hour digital recorders for a total of \$10,846.22 (inc GST).⁴¹

[76] It is unnecessary to ponder the markup between the cost to MMS and the MMS invoice to SCGH because, as Mr Kumar admitted in examination, he never received parts from InMed and never delivered them to SCGH.⁴²

*So you sent an invoice to the hospital for a product you never sold them?---No, never.*⁴³

So this is a completely false invoice?---Yes.

...

And you billed the hospital \$10,846.22 for nothing?---Yep.

Any work done?

[77] It is likely that every invoice submitted for payment by MMS was false. Repairs were not performed. Equipment and parts were not supplied.

[78] Getinge is a major international medical technology company that supplies medical equipment to NMHS. Getinge operates in Australia as Getinge Australia Pty Ltd . MMS sold medical parts for Intra-Aortic Balloon Pumps to SCGH. Mr Kumar said he bought the parts from Getinge and added a 20-25% profit margin.⁴⁴

[79] On 9 April 2022, MMS purported to send by courier three safety disks and a transducer to SCGH.⁴⁵ The MMS salesperson was Bagga Adams. The parts were purportedly received by Suresh Kumar (signature) on 13 April 2022. In evidence Mr Kumar said he contacted Getinge but they did not immediately have parts available as there was a disruption. He said he got the parts not through the sales department but through the service department.⁴⁶

[80] He did not recall the name of the person at Getinge.⁴⁷ He claimed there was a packing slip but no receipt.⁴⁸

[81] There are no MMS business records that confirm this transaction. Getinge has no record of any transaction.

⁴¹ 01539-2023-0063 - Metaphor Medtronix Solutions Invoice No. 23 dated 1 February 2023.

⁴² S Kumar transcript, private examination, 12 September 2023, p 46.

⁴³ S Kumar transcript, private examination, 12 September 2023, p 45.

⁴⁴ S Kumar transcript, private examination, 12 September 2023, p 43.

⁴⁵ 01539-2023-0046 - Metaphor Medtronix Solutions Packing Slip dated 9 April 2022.

⁴⁶ S Kumar transcript, private examination, 12 September 2023, p 49.

⁴⁷ S Kumar transcript, private examination, 12 September 2023, p 50.

⁴⁸ S Kumar transcript, private examination, 12 September 2023, p 50.

[82] A similar story was told about an MMS invoice for an optical connection board for \$8,932.10 (ex GST).⁴⁹ Although Mr Kumar claimed he purchased the board from Getinge, there are no receipts or paperwork.⁵⁰ Mr Kumar again said he dealt with an unnamed person in the Getinge service department and paid cash.⁵¹

[83] Getinge Australia Pty Ltd responded to a Commission notice to produce records:⁵²

...We (Getinge Australia) have conducted a thorough search of the generic mailboxes that we use for our sales and service teams and have not found any records pertaining to the email addresses listed in the Notice...

...we do not accept cash payments. We do occasionally take payments for product purchases via credit card, but these are strictly limited to low value payments no more than several times per year. Our search included these payments and we were not able to find any payments to/from Mr Kumar.

[84] And further:⁵³

...I can confirm that we have also not located client business records provided to Mr Suresh Kumar and/or Metaphor Medtronix Solutions. The search has been conducted against the email addresses provided in the Notice and from our generic Getinge mailboxes, not any individual ones.

[85] ProbeLogic is a specialist company that provides ultrasound transducer probe diagnostic testing, servicing and repairs to NMHS. Mr Kumar asserted he had purchased services from ProbeLogic through MMS.

[86] ProbeLogic responded to a Commission notice to produce records:⁵⁴

I can confirm we have no records showing any invoicing or requests for invoicing directly to Mr Suresh Kumar or Metaphor Medtronix Solutions.

[87] ProbeLogic confirmed it had no record of receiving any cash payments from Mr Kumar or MMS.

[88] Mr Kumar claimed in evidence he paid cash to an unnamed individual at ProbeLogic. His explanation lacks all credibility.

[89] Neither the Commission nor NMHS have been able to find confirmation that any MMS parts were supplied or repair work undertaken for SCGH.

⁴⁹ 01539-2023-0047 - Metaphor Medtronix Solutions Invoice No. 5 dated 12 May 2022.

⁵⁰ S Kumar transcript, private examination, 12 September 2023, p 51.

⁵¹ S Kumar transcript, private examination, 12 September 2023, p 53.

⁵² Email from Getinge Australia Pty Ltd to the Corruption and Crime Commission of Western Australia dated 3 October 2023.

⁵³ Email from Getinge Australia Pty Ltd to the Corruption and Crime Commission of Western Australia dated 3 October 2023.

⁵⁴ Email from ProbeLogic Pty Ltd to the Corruption and Crime Commission of Western Australia dated 23 September 2023.

The substantial probability is that Mr Kumar, who controlled both ends of the sham transactions, did nothing to repair equipment and may not have supplied any parts. His repetitive emails between Bagga and Suresh, and other aliases, maintained the fiction that MMS was a real entity and not a mirage.

- [90] NMHS has conducted an audit of the Intra-Aortic Balloon Pumps and ultrasound machines⁵⁵ which concludes there is little evidence that any work has been done on machines invoiced by MMS as 'repairs'. Parts purportedly ordered by NMHS through eMED cannot be found.
- [91] Between 28 April 2022 and 16 August 2023, the MMS Business Account received 20 payments from WA Health totalling \$281,259.04 purportedly for the supply of parts and services provided by MMS.⁵⁶
- [92] During the period 23 March 2022 to 27 August 2023, MMS issued 31 invoices to SCGH.
- [93] An Australian Taxation Office requirement is for a tax invoice to contain the words 'tax invoice'.⁵⁷ No invoice issued by MMS contained the word 'tax'.
- [94] There were 36 transactions totalling \$154,207.39 transferred from the Commonwealth Bank MMS business account to a National Australia Bank account in Mr Kumar's name.⁵⁸
- [95] There are effectively no business records of MMS. A notice requiring the registered owner of the business name, Mrs Kumar, to produce business records to the Commission resulted in minimal records being provided. The records provided do not support the operation of a legitimate business entity providing services to NMHS.
- [96] There is no documentary evidence to support the purchase by MMS of any parts, equipment or repairs supposedly completed by Mr Kumar.
- [97] The lack of business records, spreadsheets, timesheets and other documents is further proof that MMS is nothing more than a mirage, the alter ego of Suresh Kumar.

⁵⁵ NMHS Inspection and Audit of Services provided to MTP by MMS dated 10 November 2023.

⁵⁶ Corruption and Crime Commission of Western Australia Financial Analysis Report - KUMAR dated 31 October 2023.

⁵⁷ Australian Taxation Office Website Information - *Setting up your business invoices*.

⁵⁸ Corruption and Crime Commission of Western Australia Financial Analysis Report - KUMAR dated 31 October 2023.

CHAPTER 4

Two computer devices in Mr Kumar's office

- [98] As part of Operation Kiama, Commission officers obtained two computer devices located by NMHS staff in Mr Kumar's office at SCGH.⁵⁹
- [99] Mr Kumar gave evidence that he built them at his home,⁶⁰ that he bought the parts, and that NMHS did not pay for them.⁶¹
- [100] His evidence was that the computers were for personal use and he was testing them after hours.⁶² He said the computers were water cooled and had high-definition graphics for CAD (computer assisted design) and simulation programs for electronic students.⁶³

Mr Kumar, have you been using these computers to mine crypto currency?---No.

- [101] The computers were analysed by the Commission's Digital Forensic Unit⁶⁴ which found that both computers were used for the purpose of crypto currency mining and the management of crypto currency holdings.
- [102] No evidence of the use of CAD, simulation or education programs could be located on either device. One computer was found to have five crypto currency mining related programmes. These programmes were run at least 497 times between 23 January 2022 and 10 August 2023.
- [103] A large proportion of web-based activity was related to crypto currency.
- [104] At times, the computers were connected to the WA Health IT network. NMHS paid for the power used by the computers.
- [105] The Commission has identified nine components of the computers totalling \$13,870 that were billed to and paid for by the NMHS, contrary to Mr Kumar's assertions.⁶⁵
- [106] These payments were made for Mr Kumar's benefit to better equip the computers for crypto currency mining.
- [107] No one appears to have queried the reason why Mr Kumar had two water cooled computers in his office. MTP staff were not aware that these

⁵⁹ 01539-2023-0114 White custom made computer and 01539-2023-0115 Black custom made computer.

⁶⁰ S Kumar transcript, private examination, 12 September 2023, p 54.

⁶¹ S Kumar transcript, private examination, 12 September 2023, p 55.

⁶² S Kumar transcript, private examination, 12 September 2023, p 55.

⁶³ S Kumar transcript, private examination, 12 September 2023, p 56.

⁶⁴ Corruption and Crime Commission of Western Australia Digital Forensic Examination Analysis Report dated 31 October 2023.

⁶⁵ Corruption and Crime Commission of Western Australia Analysis of Serial Numbered Components.

computers were in his office until they were discovered after Mr Kumar had been stood down from his employment.

- [108] On the whole of the evidence, the Commission concludes that Mr Kumar's answer to the question regarding the use of the computers was a lie.

CHAPTER 5

Responses to a draft of this report

[109] The Commission's requirement and practice is to afford procedural fairness to persons who may be adversely affected.⁶⁶ A draft report was provided to Mr Kumar who responded through his solicitor that he had no submissions. Mrs Kumar made no submissions in response to the draft report.

[110] A supervisor responded with submissions, as did NMHS.

[111] Where the Commission accepts a submission, the draft report has been amended.

[112] NMHS has raised matters which the Commission does not accept.

[113] NMHS complains that insignificant recognition is given to its co-operation.

The overall tone of the report does not reflect the cooperation that has occurred between NMHS and the Corruption and Crime Commission (CCC) in relation to this matter.

[114] The Commission expects that all agencies will fully cooperate with a Commission investigation. The results of an investigation frequently help agencies to address misconduct issues and make changes when a misconduct risk is exposed.

[115] NMHS does not accept the flaws in eMED identified by the Commission in the conclusion.

These statements do not accurately reflect the use of eMED and its relationship with purchasing.

It is the view of the NMHS that the report does not accurately reflect the role of Health Support Services (HSS) in procurement for all Health Service Providers and misrepresents the relevance of the eMED system.

Also relevant, NMHS operates within the procurement environment guided by the WA Department of Health (WA Health), as dictated by the Department of Finance for all state government procurement activity.

eMED is the in-house operational approval system before the delegated officer receives the request to purchase through the Oracle Procurement system. eMED is not a procurement system and therefore the NMHS Authorisations, Delegations and Decision Making Schedule does not apply within eMED.

⁶⁶ CCM Act, s 86.

Oracle iProcurement (iProc) is a module within the WA Health's financial management system (Oracle 11i). The purchasing pathway for a set quantity of goods or a specific service required by Sir Charles Gairdner Hospital (SCGH) is through the iProc requisition pathway. As explained below, checks on new suppliers are required to be completed when a supplier is added to the procurement system.

The Medical Technology and Physics Department (MTP) developed and manage their purchasing through eMED, as the process of linking iProc requisition requests to work orders.

Use of eMED as the starting point of a requisition for a procurement approval is supplementary to the requirements of WA Health:

- WA Health officers are to comply with the mandatory requirements of the WA Health Financial Management Manual (FMM).*
- Health Entities may develop their own local policies, procedures and guidelines to operationalise and supplement the FMM, but these are not to be inconsistent with, or contrary to, provisions in the FMM.*
- The provisions in the FMM are to apply in the event of any inconsistency with a policy, procedure or guideline developed by a Health Entity.*
- Unless otherwise stated, all WA Health officers are to ensure that this Policy and its Procedures are fully complied with, and will be held accountable for any noncompliance.*
- State agencies must assign responsibility for Procurement and contract management activities to Officers, with skills commensurate to the value, risk and complexity of the activity.*

Mr Kumar had access to add a new supplier to eMED which was suitable for his level of seniority in the public service.

The WA Health Integrity Statement regarding Procurement and Contract Management states WA Health entities must ensure procurement decisions are made by an appropriately authorised officer. The decision to engage with MMS was made initially by [the supervisor] when he approved (within the eMED system) for the requisition to progress. This decision was made on the basis of the apparent legitimacy of the business, created through the actions of Mr Kumar.

The MTP does not have a policy regarding the addition of a new supplier and any requirement to check the supplier was placed with Mr Kumar, a Senior Biomedical Engineer, and this was entirely appropriate given his role/duties (as detailed further below). This does not translate to a significant flaw in eMED. The requirement for any policy/procedures regarding adding suppliers to eMED was considered as negated by the policy/procedures in the procurement system (as detailed below). However, it is agreed that it is a "loop hole" that will now be closed to ensure this cannot occur in the future. However, NMHS actions are entirely within the financial management and procurement requirements as stated in the WA Health FMM.

The role of HSS has not been considered in the report. It is relevant that Mr Kumar actioned purchases from MMS for other NMHS departments that were not made through eMED and were processed instead entirely through the iProc system.

The Department of Finance provides the following guidance regarding finding a suitable supplier:

- *Checking the Aboriginal business registers (Aboriginal Business Director WA or Supply Nation's Indigenous Business Direct)*
- *Checking the Australian Disability Enterprises register*
- *Searching on the internet*
- *Looking at catalogues and other promotional materials*
- *Speaking to co-workers in your agency*
- *Contacting other agencies who have recently made similar purchases*

[116] The denial that eMED is a procurement system is troubling. Although there are other steps in the approval process, eMED is the initial step. In the Commission's opinion eMED is clearly part of a procurement programme. One use is to procure goods and services. It was the eMED system's weakness that allowed Mr Kumar to carry on his activity. The fact that other systems are also part of the procurement system is irrelevant. This submission by NMHS at least acknowledges a loophole which will now be closed.

[117] NMHS further submits:

However, describing these two 'issues' as two major flaws does not accurately reflect the situation. The addition of MMS as a supplier and the comments made... regarding the approval for purchasing equipment or services (that took place on more than 20 occasions) are not distinct. Having initially deceived MTP staff into accepting MMS was a genuine supplier, Mr Kumar then went on to deceive both MTP staff and those in other areas of SCGH regarding the equipment and services they could supply.

The content of the report...does not clearly define how the approval of purchasing from MMS was distinct as an issue to the creation of MMS as a supplier. Once MMS had been accepted and approved as an option, it is not reasonable to describe the ongoing approvals as a distinct and separate flaw.

The individual requisitions were a natural progression of Mr Kumar's deceit. Once MMS 'supplied' the items associated with the first purchase order, there was no reason for anyone at NMHS to question their validity before approving subsequent requisitions. Therefore, to describe the approvals process as a second major flaw is incorrect.

The misconduct identified during this investigation has led to improvements in departmental process and education relating to eMED. MTP Purchasing staff can

no longer progress a requisition through iProc unless the requisition in eMED is approved, and the approving officer is not the person who created the Work Order.

Approval for requisition is provided within the iProc system by the listed approvers for the relevant cost centre, and these approvers are managed by Standard iProcurement Bands (defined in the FMM). They consider a requisition for approval on the basis of sighting the approved quote that is attached within the iProc system. MTP staff do not control approval limits in iProc and the requesting officer cannot approve their own request.

A check of iProc approvals for the requisitions relating to the payments from MTP to MMS confirmed they were approved at the appropriate level – they were not approved within iProc by either [the supervisor] or [acting supervisor]. (Mr Kumar had no ability to make approvals in iProc.)

The MTP has now added an additional level of approval to the requisition in iProc so that the Purchasing staff select the Head of Department as the 'pre-approver' and the Head of Department then sends the request to the Division's Nurse Co-Director for approval.

- [118] The Commission has included these submissions out of fairness to NMHS so they may form part of the record. The Commission accepts improvements have been made. It does not accept the submission regarding flaws.
- [119] There are many Commission reports on procurement misconduct. Often a person exploits a weakness in a system. The Commission has reported on this procurement misconduct, principally to inform public sector agencies as part of its capacity building function. The refusal to acknowledge what occurred here was more than a loophole is regrettable but the responsibility of managing misconduct risk remains with NMHS. The Commission acknowledges the steps taken to improve the procurement process following discovery of the misconduct risk.

CONCLUSION

- [120] Mr Kumar has acted with a deviousness not often seen. He was responsible for registering MMS. Its sole purpose was to receive money from SCGH for his own benefit.
- [121] He created a website for MMS to add credibility if anyone checked the company's legitimacy.⁶⁷ He created an email correspondence chain between 'Bagga' and 'Suresh', amongst other aliases, to further the illusion that MMS was a legitimate trading entity. This continued to the extent of mailing or couriating packages purportedly from Welshpool and taking delivery at NMHS. It is unknown whether there was anything in the packages.
- [122] Devious as he was, Mr Kumar was able to take advantage of two significant flaws in NMHS.
- [123] The first is eMED. Anyone connected to the database, with the requisite access, can add a supplier, bypassing the checks which should apply when it is proposed to engage or use a new supplier. Because there was no impediment to adding a supplier, there was no officer responsible for the sort of enquiries that should be made before engaging or using a new supplier. This lack of policy or procedure is a misconduct risk.
- [124] The most basic check of MMS would have revealed that it was a business name only registered on 3 March 2022. It would have also shown that Mrs Kumar - a NMHS employee - was the registered owner and in turn would have led to the discovery of her registration as a sole trader in 2019. Further checks would have uncovered the website and the date of its creation.
- [125] Any of these basic checks would have raised suspicion, had they been performed, and the result would have triggered a thorough investigation. The flaw in eMED enabled corrupt activity, namely the lack of process in allowing any engineer to add a supplier, without proper oversight or secondary approval.
- [126] This flaw poses a significant misconduct risk which can be mitigated by controls over adding suppliers to the database.
- [127] The second major flaw is the approval process for eMED purchase requisitions.
- [128] The Commission accepts that the supervisors are honest and were not involved in Mr Kumar's activities. Moreover, they trusted and were

⁶⁷ 01539-2023-0004 - Web Capture dated 31 July 2023 - www.metaphortronix.com.

entitled to trust their colleague with whom they had worked alongside for many years.

- [129] It can also be accepted that they and the Bioelectrical Engineering division were constantly busy with many demands on their services.
- [130] However, one of the supervisor's tasks was to give approval for purchase requisitions of equipment or services. That meant examining the whole purchase requisition, not only item and cost.
- [131] The medical equipment field, particularly for special items such as Intra-Aortic Balloon Pumps, is small. Niche companies such as InMed, Getinge and ProbeLogic have supplied hospital requirements for years and are well known and trusted.
- [132] The companies involved had no reason to deal with the hospitals through an intermediary. They were established direct suppliers.
- [133] A request for approval to purchase parts or services by a new supplier should have raised suspicion and required verification to confirm that the supplier was legitimate.
- [134] MMS was without background and suddenly appeared in eMED. Neither the supervisor nor acting supervisor ever enquired about the newcomer.
- [135] Whether NMHS got any value at all for the money is doubtful. Mr Kumar claims to have done some work as MMS repairing and maintaining machines. There is no record to substantiate his claim. In any event, that was what he was paid to do. It was his job.
- [136] There are no records in MMS that he purchased parts from reputable companies and on sold them. His evidence that he paid cash to some unnamed employees who did not record the transactions has only to be stated to demonstrate its absurdity.
- [137] The lesson for all public officers in similar positions is that you are entitled to start with a presumption of trust in your fellow workers but that following due diligence does not lessen the working relationship.
- [138] Mr Kumar exploited these weaknesses in eMed and his working relationships, betraying all who trusted him. He acted dishonestly to enrich himself by \$281,000 in a little more than a year.
- [139] Mr Kumar was not a credible witness and was evasive and dishonest. His evidence cannot be relied upon to establish that he carried out repairs as MMS or that he supplied parts or equipment to SCGH.

[140] In the Commission's opinion, Mr Kumar has corruptly used his position to obtain a financial benefit for himself. It has formed an opinion of serious misconduct.⁶⁸ The Commission recommends that consideration by an appropriate authority be given to his prosecution.

⁶⁸ CCM Act, ss 4 and 217A: This section applies in relation to a finding made, or an opinion formed or expressed, by the Commission or the Public Sector Commissioner in the course of performing a function under the CCM Act. The Commission or the Public Sector Commissioner must not publish or report a finding or opinion that a particular person is guilty of or has committed, is committing or is about to commit a criminal offence or disciplinary offence. A finding or opinion that misconduct has occurred, is occurring or is about to occur is not, and is not to be taken as, a finding or opinion that a particular person is guilty of or has committed, is committing or is about to commit a criminal offence or disciplinary offence.