

SENIOR CONSTABLE UPSTON

- Q1 This is an electronically recorded interview between Senior Constable David Upston of the New South Wales Water Police in Sydney and Rob Kothe, on Friday, the 4th of the 6th, 1999 at the Sydney Water Police Station, and also present, seated directly to my right, is Detective Senior Constable Gray of the Bega Detectives. The time on my watch is now 12.35pm. And for the purpose of the interview, Mr Kothe, could you please give us your full name?
- A Rob Maxwell Kothe.
- Q2 And your date of birth?
- A 16, 3rd, '46.
- Q3 And your address?
- A 44 Stayne Street, Summer Hill.
- Q4 And your occupation?
- A Pharmacist.
- Q5 O.K. Rob, as I explained to you prior to the interview, Detective Senior Constable Gray and I are investigating the 1998 Sydney to Hobart Yacht Race and we're here today to talk to you about Glynn Charles, who was a crew member on your yacht, the Sword of Orion. Is that correct?
- A Yes, he was.
- Q6 O.K. And do you agree that we discussed certain things prior to the record of interview?
- A Yeah.
- Q7 O.K. Firstly, I'd like to ask you, Glynn Charles is a

yachtsman that you have on your vessel. Is that correct?

A Yeah. Yeah.

Q8 And he started the 1998 Sydney to Hobart Yacht Race on the 26th of December, is that correct?

A Yeah. On the Sword of Orion.

Q9 O.K. How did you come to meet Glynn Charles?

A O.K. I'll, it's a long story. During October, I asked Steve Korma, who's an experienced, I think he's done 16 Hobarts, to sail with us on the Sword of Orion for the Telstra Cup, which is the harbour series they do before Christmas and then the Sydney to Hobart. He agreed because I was keen to do the Admiral's Cup, which is in July of this year, just about to happen, and he was keen to do it. So, we had, he had experience and I had some interest, and I had a, you know, a reasonable boat. So, he wanted to sail in the Admiral's Cup and, now, coming up now, and he was keen for me to be involved and I said, O.K, well, let's see how we go. And we talked a lot about the Admiral's Cup crew positions. And he suggested as a tactician, 'cause it's a, the Solent, where they sail in England, there's a lot of local currents, big tides, you know, five and six knot tides and you've got to have local knowledge, and he had on his previous campaign, had, where he'd done the one before, this Glynn Charles as the tactician. What the tactician's role is, to say this is, the winds are here, the tides are here, you know,

and you traditionally have an Englishman because us Aussies, we know Sydney Harbour, but we don't know the Solent, you get your backside wet unless you have some local knowledge. So, he, this is when I first heard about Glynn Charles. And he'd actually put Glynn Charles on and put an Australian guy, a very, highly respected Australian guy off the boat and, you know, he thought he was pretty good. In early December, we were about to start the Telstra series and we realised the guy we had on the boat as the tactician, good bloke, wasn't doing the job we needed. So, we talked about getting a more experienced tactician, and so Steve said, "Why don't we get Glynn?" And I said, you know, "England". And he said, "No, no, he's coming out here. I believe he's coming out here for the world championships in Melbourne", which they subsequently sailed, that's why all the English sailors went down, and coming out as a coach, "Let me find out where he's up to". So, he made contact with, with Steve, discovered that he was actually going to be coaching in Sydney during the, you know, as a paid coach in Sydney for most of December, so he couldn't do the Telstra cup, which is what we wanted. In fact, we saw him out in the water quite often when we were doing the Telstra Cup, because he was following boats behind them, giving them notes, you know, on how they were sailing. O.K. And what he said is, "Look, he's going back before Christmas. He's, you know, the Yachting Association or

whatever pays him, he's got his ticket and he's going back". But he said, "Gee, maybe he could do Hobart, 'cause he's a hot shot driver", this is the term we use for helmsmen, "He's a hot shot driver". And, you know, you can always use more good drivers in Hobart. So, Steve proposed he join us, I was reasonably warm to the idea, but I spoke to Darrenson Ovals and he spoke to some of the guys who'd sailed with Steve and Glynn, after a few conversations, in the Fastnet, which is the big race that goes with the Admiral's Cup. And the reports were they's both spent a lot of time in the rack with seasickness, the pair of them, and really, it wasn't a recommendation. I spoke to Steve and he said no, no, no, it wasn't true, it didn't happen. Denied it. And I thought well, O.K, maybe they were tired or maybe, you know, I had a question mark, but I, you know, I said, O.K, righto, but I was a bit worried. And so Steve introduced me to Glynn at the CYC, 'cause he was working over there. We talked about it, I fronted him about, about seasickness and he said he only got it occasionally and he hadn't had it for a long time, and I said, "Well, we need an extra driver". He said he wanted to do it and he was available, but he had this ticket booked to go back for Christmas, if he could change the date, that would be good and he'd be keen to do it. He told me he worked as a professional sailor and he needed, and they all say this, you can hear it coming a million miles away, "I'll need you to

pick up my expenses", and this is something that happens always, you know, with, there's two levels. The trade, like, you know, the sailmakers and the, you know, the drivers, guys who work in the industry typically get their expenses picked up. That causes some bad feeling between the guys who don't work as sailmakers for a living, but you do tend, the gun boats are stacked up with sailmakers, riggers, you know, in my case I use a guy called Ronnie Jacobs, who's the best tactician in Australia and he sells boats, but he's, you know, he's offered the Admiral's Cup and you know, that's what they do. O.K. So, I expected that, so that was all right. And then he said, "I want a fee of a thousand quid". Now, and I said, "Well, I'm sure we can come to some arrangement, you know, let's get the rest of the information and we'll see what we can figure out". So, so, he undertook to find out more about the type of airfares and the possibility of changing dates, and I wanted to find out what that cost was because it was either going to be \$100 to change an airfare or it could be buy a whole new ticket. O.K. So, we, we exchanged phone numbers and agreed to talk some more. He rang me a couple of days later, told me his ticket was non-cancellable, you know, it had been a cheap ticket, they bought one of those, and we worked, and I rang my travel agent and we discovered that it was, rather than try and get a modification of this, it was cheaper just to buy another one way ticket

to England. We looked at buying, you know, return tickets, they're sometimes cheaper than one ways, we looked at the whole thing. O.K. I had time to think about it and I told him that I'd never paid anyone to sail with me, I wasn't about to start, it was illegal in the division which we race, which is IMS. It's not illegal in other divisions, but there's a rule in IMS that says you can't do it and I was not going to do it. But I said, "However, I've been thinking about the fact that, O.K, for the Admiral's Cup, we're going to need people, we need a number of things. We need local knowledge, we need to find somebody", and by this stage he'd told me that he couldn't, he couldn't be sure he could do the Admiral's Cup himself because if he could get on the English team, he's rather be on the English team than a foreign team, as you would, 'cause this guy was trying out for the Olympics and stuff, had been to the Olympics. So, I said, "O.K. Maybe we can cobble together a package which you get what you want and I get what I want", which is the way these things tend to work out. I said, "Right now Steve's pressuring me to do the Admiral's Cup. Now, I know you've sailed with him, but I want you to sit down and tell me about the Admiral's Cup from your perspective, about how we should play it, Steve's done it and he's telling me all sorts of stuff on how it should happen, but I want an English perspective". And I said, "O.K. After the Hobart, you're not going, if, you know, this works out,

you're not going to go back for a couple of days, so we'll sit down and we'll spend a good solid day on it, so we understand it, we understand, then I'll give you a list of things I want you to find out in England for me, O.K, so we can put, so we can make some decisions on cost". 'Cause Steve was talking about a deal where he had the sails, I was gunna, it was gunna cost me 70 grand, O.K, serious dollars here, to do this sort of stuff and that's probably fairly cheap, and you can do that if you've got someone over there as a contact who can find the accommodation, 'cause the locals see you coming. O.K. Young Darren, at the moment, has gone, is doing, Darrenson Ovals, he's doing Admiral's Cup and he's going over there and he's been working there. Anyway, so we cobbled this deal together, which I guess the guy wanted money, but I was not going to pay him to do the race because it's illegal and you don't do it. And I said, "O.K. I'll, this is what we can do. You can give me value, you're going to be sitting around drinking beer for a day before you go back", 'cause you never know when you're going to get in, so you have to put the, you know, it could be a three day race or a five day race, so you have to assume it's a long race and put your tickets out based on that, so there's always some sitting around seriously drinking if it's reasonably quick, and we were hoping it would be. Not quite as quick as it turned out to be, but, so we said, we talked "And you'll have a list a things

you'll have to do in England about, you know, availability of accommodation, what local crew we could do, 'cause we've got to get on with it early 'cause all the best guys get grabbed", et cetera, et cetera. So, we worked out and we shook on that, that's what we were gunna do. O.K. I, we agreed that I'd cover his Sydney-Hobart expenses. I had to help him find some wet weather gear, 'cause he hadn't bought, I mean, he had sailing dinghy gear, but not full wet weather gear. I would cover his accommodation in Hobart, I would get him back up to Melbourne and I'd buy him a ticket out from Melbourne to London. He was then only going to be 24 hours in London before he went off to another, another commitment he had on the continent where he was going to go and do some sailing. So, that's what happened. O.K. We booked the airfares. On the morning of the weather briefing, we talked about the Admiral's Cup, we probably spent a couple of hours talking about the Admiral's Cup and he gave me some more stuff. I began to have some misgivings at that occasion, this is the day before, because in a chance conversation he told me he'd had diarrhoea and vomiting for a couple of days. And diarrhoea and vomiting is not a good when you're about to do a Hobart, and I'm an old pharmacist, but I could sort of, I said, "Mate, if you've got a virus, it could go right through the crew", and, you know, we don't use the head in a Hobart yacht race, literally no-one goes in there. You

don't want a situation where someone's got diarrhoea and got to use it, 'cause they always break. I mean, it's just the, the only two things that'd be certain is the bride's photos will be, you know, be lost when she's dead, you know, and the head on a Sydney-Hobart boat blocks up. And I really pushed him about going to the doctor and he just wasn't taking it seriously, I mean, you know, he just wasn't taking it seriously. And I said, "You've got to go to the doctor because A, you've got to be fixed and if you're even a bit nauseous, you're gunna get seasick, and if you've got diarrhoea", you know, he said, "It's only food", and I said, "That'll be great if it's only food, you'll be right, but if it's a virus, it's going to go through the crew". O.K. So, I really got fairly firm with him and said, "Mate, if by 8 o'clock tonight you haven't told me that you've been to the doctor and got a clearance, you've been and had a medical examination and got a clearance, you're off the boat. Simple as that, I just can't, can't risk it". O.K. He got the message I was taking it seriously. 8 o'clock I got a phone call. The phone call was, "Yeah. I went to the doctor, he checked me out and I'm O.K." Fine, that's great, O.K. I had, in that afternoon, had the conversations I detailed about what are we going to do. I put, you know, I had this guy on standby, what are we going to do about these guys, we're, I'm worried that I haven't got truthful information here, I'm worried

that they're not as good as I've been told, and I got the other crew to agree that if I could get a replacement we'd just can them. But we couldn't get the replacement that we wanted, and so, it came to the morning, so that, I rang them all back and said, "We're gunna go with existing crew", and I talked, I talked to Glynn on Christmas Day. He did genuinely sound to be a lot healthier and, you know, he said, "I'm feeling a lot better" and blah, blah, blah, blah. O.K. The morning of the race he'd swum three kilometres, as I told you previously, and he was as fit as a flea. But chance conversation, he hadn't been to a doctor at all. He'd rung a mate, one of the English team who was a doctor, who was in Melbourne, and they'd talked about it on the phone, and, you know, now, it turned out the guy was all right, but I didn't feel good about it because he'd told me he'd been to the doctor. So, I was, you know, but it was too late, I mean, nothing was, anyway. So, I filled him up, 'cause being an old pharmacist, I filled him up with Merbentyl which is a good seasickness tablet you can take while you're flying and so forth, causes no problems, and off we went. O.K. So, that was, that was, then we went sailing. O.K. And so, I just, O.K, his health had improved, yeah, O.K. Now, O.K, Glynn's family, as you probably know better than I, took a while to be contacted 'cause we'd stuffed up their phone number, I'd left a number out, O.K. The CYC paid

for Marion and Julie to come over. I don't actually know who paid for Annie to come over, but they came together, and they came to Melbourne and then down on to Hobart. When Marion arrived, God, she was this little, she's this little skinny girl and she was distraught and she just collapsed into my arms, and, you know, I was a bit, we were a little bit reserved and we didn't know what to expect. And she just was sobbing, she stood in the airport, me on crutches, she sobbing on my shoulder for about 15 minutes, you know, and she was a mess. I mean, fair enough. And I talked, luckily she'd sent, her cousin was there as the minder, and her cousin was, I mean, both very nice, but her cousin was O.K. and non emotional and you could see why she was there and she looked after her. And we had a conversation in the car in, about, and as a pharmacist, you know, we were sitting in the back and she was in the front, and I said, "Have you got any tranquillisers or anything?" And yes, they had been prescribed but she hadn't given it to her because they were travelling and she was worried about walking through the airport. I looked at the prescription and we worked out that she needed a big fat dose and I bombed her, Julie bombed her out and she was O.K. So, but, you know, sort of, didn't know quite what to expect. O.K. O.K. We talked, next 24 hours we talked to them a lot and that was good, and she, all sort of calmed down. Steve Korma, at that stage, and this is

sort of an overlay, was, had, he'd got off the boat, he got off, you know, he was in the first lot, I'd sent him off first. He was the guy who nearly, he did genuinely nearly die, I mean, you know, he was cramping up and he lost contact with the boat and we were really worried about him. And he went back to Sydney, he'd been back to Sydney and the newspapers had these big headlines and big stories written by his mate Rob primarily, but lots of, you know, lurid stories, and the rest of the crew hadn't seen them and they started to see them, where plainly, this guy had saved our bacon, absolutely saved our arse. And there was, you know, other members of the crew wanted to punch him out, and I rang my solicitors and said, "How do I shut him up?" What he was actually doing, we realised later, he was in shock and this was his way of dealing with it.

Q10 Yeah.

A You know. I guess his way of dealing was sort of blocking out what he'd, that he'd gone into shock, and this is what he, perhaps he wished he'd done, you know, sort of thing.

Q11 Yeah.

A You know, and I guess we've all seen evidence of that. And later on when he thought, when we thought about it and we thought, well, gee, if he actually just at some just recognised what he'd done and said, I was a real arsehole, we all would have said, mate, don't worry,

done, finished, it was pretty traumatic for everybody.

Q12 Mm.

A Because there was more emotional stuff happening to people than you sort of recognise in the first instance. I mean, Carl Watson, who you interviewed, you know, he took three weeks for his hands to stop aching from when he was last off, and he was holding onto that cable so hard, his girlfriend said it was three weeks before his hands could fully open properly and function properly.

Q13 Mm.

A And just, you know, emotion and terror and all those things you've heard. O.K. So, Steve was, was exaggerating stuff and there was some bad feeling between the crew. He'd told the press, for instance, that he'd been five hours in the helm. At this stage there was a guy there still recovering from his five hours on the helm who'd come downstairs, this guy 118 kilos at the time, he'd been the only one who could hold the wheel.

Q14 Mm.

A And Dags and other people were gripping him and he had double harness and, you know, he'd been on the wheel being thrown around a fair bit. And he'd been five hours on the wheel and he'd come down, given it to Steve, Steve couldn't handle it, he gave it to Glynn, you know, I mean, in terms of a long period.

Q15 Yes.

A

So, we'd actually resolved that they were only going to do about an hour a run, and one of the reasons we turned back is we realised we just wouldn't have the drivers to keep doing it forever. O.K. So, Steve was, was tending to exaggerate somewhat, and so the crew really weren't talking to him, they were apart. He was a good friend of Annie from when he and Glynn had been in England. So, he was looking after Annie. And so, Steve and Annie were, you know, he was looking after her, which was good, but she was quite hysterical, she wouldn't talk to the rest of the crew. Poor Dags tried to talk to her, just because he was on deck and I guess he thought he sort of owed it because he was, he was there when it rolled. And I remember one of the other guys getting down on his knees in the pub, I mean, you know, trying to explain to this Annie, 'cause he was pretty convinced, guy called Simon Rafold, who's with the paralympic organisation committee, he's very nice guy, he was down on his knees begging for her to listen when he told, trying to tell her, because he was the last person who actually saw him in the water, he just kept watching and watching and watching. She just wouldn't listen to him, you know. And Dags went to England to the memorial service, and one of the things I wanted to happen was that she'd sort of just hear the whole story, 'cause we kept hearing that she was bitter. The rest of them were all organised, they understand it and it's - - -

Q16 Dags being Darrenson - - -

A Darrenson sorry. He went to England with Hans Summer, the director of the CYC and one of the things they both tried to do was just, just tell Annie what actually happened.

Q17 Mm.

A But she just refused to listen. Now, Hans Summer's a lovely, nice polite guy in his 50s, really lovely guy and absolutely honest, trustworthy and, you know. He couldn't sort of, she was just very bitter and very upset. The rest of the family were really, liked Dags a lot and got on well and the relationship's been quite good. We were worried about, honestly worried about, the fact that we, that Annie doesn't really seem to understand what happened, certainly is blaming all and sundry and she's been peppering the club with semi-legal type questioning stuff as if she wants to mount, she's looking for someone to blame.

Q18 Mm.

A Which is, I mean, she's the one that's lost more than anyone else. I mean, sisters and brothers, as you grow up, you live in a parallel world. You know, yes, when you're little you're very close, but you move away, and Marion made this comment to me, you move away from each other, whereas a partner, because that's, Annie was, you know, they were living together, well that's just totally destroyed her life, you know, and so she's very upset. So, that's just a bit of background stuff.

O.K. At the pub, she yelled at me, you know, the one conversation we had, she yelled at me about being, you know, the last conversation we had was the fact that he'd, I'd been nasty to him about his seasickness. Now, I have no idea what story he told her about his seasickness, but this was actually me being grown up and responsible from my perspective, but I don't know what story he told. Certainly the sad thing is that he wasn't, he wasn't truthful to me and I guess from his, we all have our own realities, so maybe I did yell at him, you know. But anyway, so she, that was the one conversation I had with her. O.K. Annie refused, I told you that. O.K. On the last night when we were in Hobart, Marion, we were at, God, it was dinner and we were sitting at a big table, she'd had a few drinks and I, as a pharmacist, worry about people who've been having tranquillisers and drink, so I suggested to her that she didn't, and I talked to Julie, but she'd had, she was actually, she'd been out on Brindabella and had a good sail. She'd actually steered Brindabella across the finish line and she said early on, when she first got there, she said, you know, she never wants to go near a boat, but she actually said, you know, "Glynn would have wanted me to do it, he would have loved this opportunity to sail on Brindabella", and she was really quite a whole lot happier.

Q19 Mm.

A But she was a bit high and getting a little bit pissy,

probably didn't have that many drinks, but that with the tranquilliser, I've forgotten what she was on, but she was a bit shit-faced, I'd have to say. Anyway, she said, "What about Glynn's fee?" And I started to explain the complex thing, and we're having to shout because there's a band et cetera, et cetera. And, you know, I tried to explain that the deal was that he had to do this other stuff and he hadn't done it sort of looked at her and I said, "Look, I'd had the conversation with my travel agent", and what the travel agent had done, I mean, he's a very good travel agent, what he'd done is during the Hobart, he's heard that Glynn Charles had gone overboard, and so he cancelled the ticket and explained the circumstances and British Airways had not charged us. I mean, it had been put on my credit card, but they refunded it, O.K. So, I said, "Look", you know, and she explained that the mother was going to have a lot of expenses and and I said, "look, I've saved the money, because I haven't had to pay all this. I'll send the money".

Q20 Yeah.

A You know, and stop arguing about it. I'll stop trying. I felt really, what's the right word, I felt very small, sort of, trying to chisel. Now, I knew that he hadn't fulfilled the contract, but I didn't sort of, I just thought, well, look, I've saved on, I haven't paid all this accommodation, et cetera, et cetera.

Q21 Mm.

A Now, I probably shouldn't have done it from a point of view of WorkCover, but I didn't know WorkCover existed in terms of this, but that's what I did, you know, so that's it. Now, I'll give you that, I'm happy to give you this.

Q22 Yes.

A It's not, you know, this is my notes.

Q23 Right.

A It's not exactly the same as that, you can use both.

Q24 Yeah.

A But that's, that's pretty much. I can't think of anything else personally that you don't know about. And in terms of the whole exercise from my point of view. The one thing that we didn't explain to you initially, because we made the decision that we didn't think it really was, made a difference, was that the general conviction among the crew after the rollover was that if anybody, if any of the other good drivers had been driving, it wouldn't have happened.

Q25 Mm.

A But we thought, our position was, if this is going to get into the record and the relatives are gonna see it, is it helping anyone.

Q26 M'mm.

A And we decided at the time it wasn't helping anyone. But we've since decided that maybe we've got to give you guys at least the tools to work, and then you can

make the decision, and if it is relevant, you'll use it. And I'm sure if it's not relevant, you won't.

Q27 Yeah.

A Is that, I think that's, yeah, O.K. So, that's my statement, O.K.

Q28 Yeah. I have no problems - - -

A Any other questions?

Q29 Yeah. Just a couple of things. With, with professional yachtsmen as it stands - - -

A Yeah.

Q29 - - - and they sail, they sail on yachts quite a fair bit.

A Yeah.

Q30 In big races. And you being the owner of a yacht, a very competitive yacht.

A Yeah.

Q31 Is it normally the case that you'll get a yachtsman and pay his expenses for sailing with you?

A Yes, paying expenses is something that you do regularly. Expenses being defined as their fares and accommodation, occasionally kit, you know, gear if it's unusual.

Q32 Yeah.

A I had a couple of professional guys who lost gear going to Hobart, I mean, Darren, for instance, took his power drill with him.

Q33 Yeah.

A And lost, obviously lost it. Didn't take it off.

Q34 Yeah.

A I replaced his power drill. Now, he wasn't paid to be in that race, you know, but as far as I'm concerned it was one of these things. It is quite common for professional yachtsman to get their expenses paid. That's normal.

Q35 All right.

A In America it's, and in England, it's quite common, and in Europe where they've got real money, it's quite common for people to get paid as they do, America's Cup sailors are all getting paid, you know, not a lot. They might get 50, well, in terms of, you know, they might get 50 or 60 grand, they work their arses off, but that would be quite common, you know, that they get that.

Q36 Yeah.

A In IMS racing where I race, you know, the class, it's forbidden, you don't pay people.

Q37 Yeah.

A And so you can get people who come from other, and certainly I've never paid anybody to sail on a boat.

Q38 Mm.

A What you'd, certainly has happened though, is you'll get situations where you'd say, O.K, how can you add value, what else can we, you want money and you're going to come here, O.K, how can you add value. Can you take us out and we'll, you know, buy sails from you.

Q39 Mm.

A And that's a common thing. For instance, the people, the people on my boat, I've got a sailmaker.

Q40 Mm.

A Now, I'll spend \$70,000 with The Loft, with Frazer's Sydney.

Q41 Mm.

A And in exchange, they'll put a guy in my boat. Now, he's not being paid.

Q42 Mm.

A You know, not being paid at all, but that's, I'm supporting them and they're supporting me.

Q43 Yeah.

A And so, Bob Frazer, the owner of Frazer's, drives Brindabella. Guess who his biggest customer in the whole world is? George Snow, the owner of Brindabella. Big boat, big sails. So, that's quite, that sort of thing is quite common.

Q44 M'mm.

A And that's quite legal. When I say quite legal, I'm only talking within terms of the sport, it's legal. Anyway, obviously, but in terms of the class, that's quite legal.

Q45 Yeah.

A But yeah, so this guy asked me to and I said, "Yes, you can do, I'll pay you some money, but I'm not gunna pay you for that, 'cause it's illegal. I'll pay you for what you can do, which is, you know,

and he couldn't legitimately add value. I decided not to go to Admiral's Cup because my leg, you know, I pulled a pin in February. I thought it would be right by now, I just had an operation last week.

Q46 Right.

A So, that's it, so, so, so that's it. Now, I've got a copy here of my, of the, that's my personal bank account.

Q47 Yes.

A Of the transfer that went to Mrs Charles.

Q48 Right.

A O.K.

Q49 O.K. And you've produced that to me, and that's headed National Bank, sorry, National account statement, with your name on it?

A Yes.

Q50 O.K.?

A Yeah. That's right.

Q51 And, all right.

A O.K.

Q52 Now, as far as, lets look at, when you spoke to him and you spoke about, discussing payment and all that, and you agreed that you'd look after his expenses.

A Yeah.

Q53 That in fact included sailing in the race.

A Well, there's no expenses in sailing in the race.

Q54 Yeah.

A I mean, yeah, I guess there is insofar as I didn't

expect him to find his food in the race.

Q55 Yeah. No, but excluding food and drinking water and general comforts on the boat, what I'm talking about is, is part of his expenses were covered, his duties not only to obtain information for you about the - - -

A Admiral's Cup.

Q55 - - - Admiral's Cup.

A Yeah.

Q56 It was also to sail in the race.

A Yeah. What I was doing was I making sure he wasn't out of pocket.

Q57 Yeah.

A Specifically wasn't out of pocket. And the out of pocket part would have been his change of his airfare to get back to England - - -

Q58 Yes.

A - - - 'cause he was going on a different date, his flight from Melbourne, from Hobart up to Melbourne - - -

Q59 Yes.

A - - - and, yeah, well that would have been pretty, and he would, I wouldn't have asked him for his food on the boat.

Q60 Right, yeah.

A That's it.

Q61 All right. Now - - -

A The other part, any other money he was gunna get would be for the consultancy, the information he'd provide

both by sitting down and having a long yarn in Hobart to work out what information he was going to have to get in England.

Q62 Right.

A Which was, you know, we needed to sit down and plan and talk about and dah, dah, dah, dah, dah, dah.

Q63 So, there was the accommodation?

A Yeah.

Q64 What, what, can you give us an estimation of costs?

A The accommodation - - -

Q65 Yeah.

A - - - would have been probably, say, \$70 a night.

Q66 Right. And the total cost all up, with what you, what you spoke about with Glynn - - -

A O.K. I've written it down here.

Q67 Yeah.

A \$1750 for the airfare.

Q68 Yeah.

A \$350 for the local flights, because you went, you know, you can get them cheaper, but if you get them at the last minute - - -

Q69 Yeah.

A - - - they sting you. Probably another \$150 worth of food, and another probably 2 or \$300 worth of accommodation.

Q70 Right.

A It came to about \$2600.

Q71 \$2600.

A Now, when I was in the function, the reception thing on the last night, what I realised is the amount I'd saved was roughly equal to the amount of money that, the thousand quid, so at that time I felt sort of weak about trying to chisel, you know, 'cause the guy was dead and I tried to explain it, but I thought, you're really being petty here, you've saved some money. I felt guilty, I mean, I don't but that's how I felt.

Q72 But you would have eventually paid him those expenses anyway - - -

A Well, I would have - - -

Q72 - - - when you finished the race. Hypothetically
- - -

A Yes, yes, yes.

Q72 - - - if he would have finished the race - - -

A Yeah.

Q72 - - - nothing would have happened - - -

A Yeah.

Q72 - - - you would have got through, he would have
- - -

A I'd already paid for his airfare, which I got a refund
- - -

Q73 Yes.

A - - - but I already, yeah, so I'd paid for his airfares already - - -

Q74 Yeah.

A - - - and yes, I was, I'd already committed, I ended up

still having to pay for the accommodation. The fact that he wasn't there - - -

Q75 Yes.

A But I already paid for the accommodation

Q76 Yes.

A And we went down anyway. I mean, I ended up paying, I paid for the crew to fly back from Merimbula, I chartered the aeroplane, and I flew the entire mob down to Hobart for the, for the memorial service.

Q77 Right.

A Now, some of them can afford it and some of them can't, you know, but I just wanted them all to be there, so that's it. So, yeah.

Q78 All right. So, as a whole, all his expenses were paid and a discussion was made and you shook on that agreement?

A Yeah. We shook on that.

Q79 There was no written agreement anywhere?

A No, no, no.

Q80 O.K. So, they included his flights, his accommodation, his meals, obtaining information for you for the Admiral's Cup and sailing in the race?

A Yeah. That's right.

Q81 And then, in fact, when Miriam mentioned to you about the fee, you decided - - -

A I started to explain it and then felt weak and thought, yeah, yeah.

Q82 Yeah. And in fact, you then sent 1000 pounds - - -

A Yeah. To her account, to her mum's account.

Q83 Which is equal to say, \$2600 - - -

A Yeah.

Q83 - - - roughly, rounded off, and she in fact, as you know, from your statements, that's been taken out and she's been paid according?

A Yeah. I gave, yeah.

Q84 All right.

A I don't know who got the money. I sent it to the mother. There was, you know, there was actually, you know, just, they, you know, I just felt weak - - -

Q85 Yeah.

A - - - you know, just sort of chiselling, you know, the fact that he hadn't done started the conversation I could even hear myself talk and decided this is really, you know, chiselling.

Q86 Yeah.

A But at the time it didn't, I was unaware of any, you know, I just automatically assumed, it just didn't occur to us that he wouldn't have the same insurance that we all carry.

Q87 Mm.

A In fact, and I wrote a letter to his mother, yeah, to his mother, because the scheme that we use is actually originated in Britain.

Q88 All right. That brings me to a point where, you mentioned earlier, prior to the commencement of the interview that yachtsman in Australia have a green card

with them on board which you register with the Australian Yachting Federation for a fee, \$40, is that correct?

A What it is, is, no. The individual sailers, it's not the - - -

Q89 Yes, individual sailors.

A They, themselves, all the ones who sail a lot, all either, if you're a member of a recognised yacht club like the CYC, it comes for free - - -

Q90 Yeah.

A - - - which is my situation and Carls and, or alternatively, you independently just send off a cheque for \$45 or \$47 - - -

Q91 Right.

A - - - and you get a whole lot of things. You get discounts on, you know, from various chandleries et cetera, et cetera. But one thing you get is this, you get a death cover for while you are training or racing and you also get accident, well, you get sick, ... you get medical bills paid.

Q92 Yeah. Right.

A And so, I understand some of the people, there have already been payouts under this scheme, they were very quick, payouts on some of the guys who did die in the Hobart. You know, they paid out very quickly.

Q93 All right.

A O.K.

Q94 O.K. Now, are you aware of the term payment in kind?

A No.

Q95 So, you've never heard of that terminology used before, whether it be by cash or payment in kind?

A I don't think so, but go on.

Q96 No, no. That's all right. Well, no, we'll just leave it at that.

SENIOR CONSTABLE GRAY

Q97 What insurance liability did you have on the Sword of Orion?

A 10 million dollars.

Q98 And that was through who?

A The AMP, the marine arm of the AMP. They paid out of the boat.

Q99 All right.

A You know, so that's it. I understand, I rang them yesterday and they say that the only way they pay out is if there's liability proven.

Q100 Mm.

A That's I think what we're all talking about here, is, I understand, I get the feeling that the inquiry that's coming perhaps out of England is really having realised that it's going to be very hard to prove liability, that under some sort of worker's compensation circumstance, there's no need to have any liability. I think that's, I get the feeling that that's what this is all about, but anyway, that's, but certainly what they say is yes, I've got a 10 million dollar cover, you have to have to go in the race, they won't let you

- - -

Q101 Well, it didn't used to be - - -

A It's only 5 million, but I had 10 million anyway. And so, that I had, I'm properly covered, et cetera, et cetera.

Q102 Yeah.

A But as far as I'm concerned, he wasn't a worker as such, you know. I don't know who decides these things, but I think there's a definition of workers and I don't, I think he, as far as I can see, he's a, you know, he's a hired gun and as such he should have the same sorts of insurance as the electrician has and anybody else. I think you carry your own insurance in those circumstances.

Q103 Is it the case that you've got a similar situation on your boat now, or will be?

A What do you mean?

Q104 you pay expenses for crew?

A Well, that's, that's normal. Yeah, that's normal.

Q105 So, that's an acceptable practice

A Yeah, that's a normal practice for the sport, you know, in all the gun boats. I've got some of my crew going north, about half of my crew won't pay for any of their accommodation on Hayman or Hamilton and there's about three of them that will have to make a subsidy, but I don't think any of them would consider they're worker people, you know, that's just the normal. Because what you're asking people to do, you're asking them to use

all their annual holidays to go to, you know, and generally, what a lot of them do, well, they'll actually take their wives and you end up paying half of that accommodation because you were otherwise gonna pay They pay for their accommodation. But, yeah, you're asking them to go to Hayman and Hamilton and Hobart and Coffs Harbour and they use all their annual holidays and they usually have to take unpaid leave on top of that, so if you, and if a kids working, you know, he can be a very good sailor but not terribly well paid, and if, it's just not a reasonable expectation. Their wives would just, you know, scream. So, that's normal within the sport and I don't believe anyone could be convinced, personally, that that's, that they're all working for you.

Q106 O.K.

SENIOR CONSTABLE UPSTON

Q107 All right. Pardon me. Rob, is there anything else that you'd like to mention?

A No, I don't think so.

Q108 O.K. The time on my watch is now 1.15pm. This interview is now concluded.

INTERVIEW CONCLUDED