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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE JOHN HATZISTERGOS AM
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION HECTOR

Reference: Operation E19/1595

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 3 APRIL, 2023

AT 2.00PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: Yes. Mr Aziz, you are subject to the same affirmation you took at the commencement of your evidence to say the truth. Do you understand?---Yes.

Thank you. Yes.

10 MR ENGLISH: Thank you, Chief Commissioner. Mr Aziz, you remember I was asking you some questions in relation to some messages where you were suggesting to Mr Sanber that he should say that RJS's turnover was \$10 million? Do you remember that?---Yes.

And you said you were going to play the program card. Do you recall that message?---Yes.

By that stage do you say you make your arrangement with the partners of Sanber Group to receive a split of the profits?---Not at that stage, no.

20

So you're certain it's not until you're actually giving assistance in relation to the delivery of the project that you've actually agreed or made some arrangement to be paid, is that right?---Correct.

If volume 3.8, page 73 could be brought on the screen, please. This is another email chain from 3 July 2017. Do you see that?---Yes.

Where Royden Gates is referring to that D&B report and saying that a full one should be obtained in relation to Sanber Group. Remember that?---Yes.

30

If we go up, or if we just go up to the bottom of the next page, page 72, you can see right at the bottom there, "Abdal, this doesn't look good. I have requested the full report as the attached doesn't have detail of what is driving their bad score but it does say that they would be high risk. FYI, from viewing around 50 of these reports previously I have never" and if we go to the next page "seen a high risk one returned. Do we have a plan B? Can we explore other options?" Do you remember receiving that email from Mr Baines?---Not, not specifically.

And then if we go back to page 72 you can see your response to Mr Baines is, “Dan, how long would it take for you to get the full report? The attached seems very vague.” Do you see that?---Yes.

And then he says, “Abdal, Royden advised three to five business days. I suggest you and Amit look at other options as while the attached was vague it did not look good. I will discuss further with Greg but we should have a plan B in place just in case.” Do you see that?---Yes.

10 And then if we go up the page there’s a message from Mr Touma to you, Abdal, and this is again on 3rd of the 7th. “Had a quick talk to Matt McKimmie. He did some station refresh up that way. His suggestions are as follows” and there’s six potential contractors identified, one of which is Rapid Construction. Do you see that?---Yes.

And then you respond to Mr Touma saying, “It would have been nice to have these a few months ago.” Do you see that?---Yes.

Did you mean that?---Yes.

20

And you say, “Amit, can we go out to these guys and request tenders urgently, please?” Do you see that?---Yes.

If we go up to the next page, on the next day on 4 July Mr Patel tells you, “Rapid is already one of the three tenderers who submitted the price. I have called them a few times yesterday and last week. Also I will try again today and see if they can provide clarification on our queries and agree to meet our program. On top of that I am speaking with Dabcorp. I will give others a call. I remember calling Ichor and Momentum Build prior to send out
30 tender but I will give them a call again and see if they are interested.” Do you see that?---Yes.

In the next email you say, “Following on from earlier discussions with Amit and Greg, we can proceed with engaging the successful builder so they could start preparing docs and get the ball rolling with procurement and set up on site.” Do you see that?---Yes.

“If the financial report comes back and we’re still concerned then we will terminate the contract and advise the contractor of our reasons and move on.
40 We can’t wait to go out to new tenders with the possession around the corner.” Do you see that?---Yes.

Is that you playing the program card there?---Yes.

Okay. If you go up to the next page. You're cautioned in the first paragraph by Mr Patel, he says in the last sentence, "Ensure that you're asking them to prepare documents only." He says, "I am working on option B, talking to other builders, and even if that doesn't work I think we need to go to trade level and may need to hire a supervisor engineer to manage the work." Do you see that?---Yes.

10

That was something you always could have done if you couldn't find a subcontractor to do the building package, couldn't you?---I think that's what we would have done if we couldn't find somebody to do it, yes.

Yes. So when you say there you were motivated to make sure the works were done, you weren't out of options were you?---Well, no. At that stage Downer hadn't done a station in that model of delivery so the preference was to engage a single source for the package. That's how all the other stations and packages were delivered.

20

THE COMMISSIONER: Whose preference?

MR ENGLISH: I had the same question.

THE COMMISSIONER: Yours or Downer's?---Downer's.

How do you know that?---Well, because all of the - - -

30 A moment ago you said that provided that with accurate information about RJS, they wouldn't have been successful. So how can you say it was Downer?---This, this would have been discussed with Downer and the decision not to proceed with option B would have been a Downer decision. It wouldn't just be a decision that I would make. So at that time, for that tranche of stations, Downer did not engage any trade level, you know, they didn't employ that model of procurement on any of the stations in any of the packages, and when it was discussed it didn't seem to be something that, you know, at that stage that they were keen on doing.

40 Yes. All right.

MR ENGLISH: We saw in relation to the electrical and comms, Downer awarded it to itself.---Yeah, as the, as the main contractor. They wouldn't deliver it to the electricians and the different trades. They would give it to an overarching company that would take on that liability and deliver the job.

If we go up to the next page which is 68, you can see there's a message from Mr Daniel Baines to you and others. He says, "I appreciate that Greg and Abdal have discussed and agreed to proceed in some fashion with Sanber but given that the report that we have cited which says that this
10 company is more than five times more likely" - it says - "that industry average to fail in the next 12 months, then this becomes a very risky decision. My thoughts are that we should put all efforts into plan B." Do you see that?---Yes.

Weren't you obliged to tell your colleagues here what you'd been doing to assist Sanber get over the line by this point?---Perhaps, yeah.

Well, probably fair to say you were obliged to tell it earlier on in time, but at least by this point you knew that there was a risk at least being discussed
20 within Downer about the solvency of Sanber Group to complete the job, correct?---Yes.

And that would have been of particular concern to Downer in ensuring that the project could be completed, correct?---Yes.

And if you skip to the third paragraph it says, "While we're not currently privy to the detail behind the high risk rating in this instance, it certainly is an alarm bell." So that's suggesting that it's really of some level of concern to those you're dealing with at Downer whether Sanber Group's actually
30 qualified enough to do these works, correct?---This is not so much qualification but their financial standard.

They've got the capability, yeah, that's right. You're right. Thanks for that. And then you say at the top, "Thanks, Dan. Myself and Amit are doing our best to progress plan B. We've spoken with Rapid this morning and are waiting further information from them." Where were you doing in your best efforts to progress plan B?---I honestly can't remember.

But it's the, you didn't want plan B to work. You wanted plan A to work,
40 correct?---Well, plan A was so far down the line at that stage that, yes, it would have been the easiest way forward but it seems like I was talking to

Amit about progressing plan B but I don't know what, what that entailed or how far that went.

Right. If you can go to volume 1.13, page 117.

THE COMMISSIONER: Sorry, just on that, you said that you were talking about the capability to deliver the project. This is RJS, is it?---Yeah.

10 But I thought you consented earlier that they didn't have the workforce that you represented they had?---You mean the CVs?

Yes.---Well, at that stage, no, I wasn't aware that they didn't have those people on their books.

Well, you weren't aware that they had any people on their books.---Yeah, that's right.

20 So how can you talk about them having the capability?---Well, I think I was mainly referring to the people I'd dealt with onsite, being Raja and John, and, you know, the people I interfaced with, not so much the, anybody else or their subcontractors.

I see.

MR ENGLISH: You just referred to John, that's John Dabit.---Yeah.

But he's from a different company.---Well, at the beginning they, I thought they were both Dabcorp, Raja and John.

30 But you progressed two different bids from separate companies.---Yeah, that's right.

So is your evidence that you actually thought they were just colluding in the one company?---No, initially they were working together and, and then throughout the tender Raja said, "No, we will, RJS will tender for it because I think John or Dabcorp may not be able to do it or" - - -

40 THE COMMISSIONER: Mr Aziz, excuse me for saying this, but I'm just struggling at the moment to understand how you correlate your knowledge or lack thereof of the capability of RJS with your enthusiasm for their success for the project. Are you able to assist me? How can you do what you did to

progress the success of RJS in obtaining this tender in circumstances where at least on what you've told me, you know very little about their capability? ---Yeah. Correct. I guess it did backfire when they - - -

All right. Okay.--- - - - didn't have the right people on-site.

MR ENGLISH: So if we can go, yeah, we're now looking at page 117 of volume 18.13.---Yeah.

10 This is your message to Mr Sanber, "I think we should also drop our price a little and say following kick-off meeting and thorough site inspection on Friday. Please note that we have overestimated some of the work. Attached revised pricing, et cetera. I think we should come down to high 700s considering it's going to be a 300K job. I think it's a good deal. Let me know and we can go through a price schedule tonight." Do you see that?---Yes.

What are you doing there?---Well, I think their price was high.

20 Yeah. And so what are you intending to convey by that message to Mr Sanber?---To bring the price down.

Okay. Why?---Well, that 300 K comment was made by Nima and I thought, you know, if that's the real, you know, cost price which I, I don't think he knew or saw the breakdown at the time but he seemed to think that that's what it was, then surely they can drop their price and even internally within Downer it, it was just seen as too high.

30 So you're saying it's a 300 K job, you guys are too high, you should come down to high 700s.---Yeah.

But look at the language you use. You say, "We." "We should also drop our price a little and say" and then you say in the third line, "I think we should come down." Do you see this?---Yep.

This is you, you're involved in this company looking at it from a perspective where you're going to make money out of it, correct?---Well, I think I was quite involved by then but there was no agreement for me to get anything out of it at that stage.

40 Why would you call it "our price" then?---Well, I was telling, I was helping them and guiding them through the whole process. So I was implicit in it.

And you're suggesting to them that it's a 300 K job but you guys should charge higher - well, we, you say "we", but high 700s. So make some, what, \$400,000 profit?---Well, because Raja didn't agree that the 300 was a valid figure, right, but that's what Nima said it should be or is. So I thought, okay, well, if, if that's the case, we'll meet it halfway sort of thing.

And you're saying that because you've got an interest in being paid out of this job.---Not at that stage. Later on, yes, but not at that stage.

10

But that just can't be right, Mr Aziz. That's got to be untrue evidence I suggest to you.---I, I really don't know what else to tell you. At that stage we had no agreement for me to be paid and even when I raised it, it wasn't accepted well by, by Raja.

Mr Aziz, are you just trying to avoid agreeing that what actually happened was that you wanted to receive a split in the profit of this project right from the start? Are you avoiding admitting that?---No. And I will admit that for other things that you will cover later on, Commissioner. I'm just saying at this instance that was not the case.

20

Commissioner, I seek relief from the transcript of Mr Aziz's compulsory examination, transcript page 1538, lines 1 to 23. Do you have a copy of that there or will I hand a copy of that to you, Commissioner?

THE COMMISSIONER: Yes. Granted.

**VARIATION OF SUPPRESSION ORDER: THE SECTION 112
ORDER IS VARIED WITH REGARD TO THE TRANSCRIPT OF
MR AZIZ'S COMPULSORY EXAMINATION, 25 OCTOBER 2022,
TRANSCRIPT PAGE 1538, LINES 1 TO 23**

30

MR ENGLISH: You've got a copy, Chief Commissioner?

THE COMMISSIONER: I do.

MR ENGLISH: And might that - can I tender that as well, please?

40

THE COMMISSIONER: That will be Exhibit 106.

**#EXH-106 – EXTRACT OF ABD ALAZIZ A-AZIZ’S COMPULSORY
EXAMINATION TRANSCRIPT DATED 25 OCTOBER 2022 PAGE
1538 LINES 1 TO 23**

MR ENGLISH: If it can be brought on the screen. Do you remember I
asked you just after the luncheon adjourn about these messages, your
10 suggestion about \$10 million and saying that you were going to play the
program card. Do you see that?---Yes.

And you were asked the question, “And is that something Amit Patel was
going to ask them to your knowledge?” and you say, “It sounds like it, yes.”
Question, “You told them to provide a false answer to increase their chances
in being allocated the work for Victoria Street, is that fair?” “Correct,
yeah.” Next question, “Okay. You’re doing a lot of work, Mr Aziz, during
the tender process to ensure that RJS Civil were awarded these works.”
“Yeah.” “Are you sure that you didn’t have a financial interest at this,” -
20 state, it should probably read “stage?” And then you say, “I really can’t
remember. I would say it looks like I did.” Do you see that? But then in
fairness you say, “But I, but, yeah, I’m struggling to remember.” Do you
see that?---Yes, yes.

So what’s your evidence? I mean, we’re looking at a period between 3 to 9
July 2017. Did you have a financial interest by then in this project?---In
July?

Yeah.---No.
30

Right, so is - - -?---This is - sorry. The statement here is based on the
evidence that I was shown on the spot, right.

Yep.---And I thought, okay, well, it, it appears that way, so I just couldn’t
remember when that agreement would have happened, right. But upon
reflecting on it, I can tell you now that it didn’t happen that early, because
when we were having the arguments about why I should be paid and how
much, it was much later down the track.

THE COMMISSIONER: So your evidence is that you were doing all this to advance Downer's interests, even though they never asked you.---Well, it's my interest as well.

Well, hear me out. You're doing all this to advance Downer's interests, not to advance the interests of Mr Abdi and Mr Sanber and Mr Nguyen?---I was advancing Mr Abdi's interests, yes, and by delivering the job I would advance my personal interest as well because, I mean, from this job I actually got a promotion from Downer. And had I failed to deliver it, I
10 don't think I would have had a job.

Do you think you would have had a job if you told them what you did?
---I don't think so.

MR ENGLISH: If we can go, please, to volume 3.8, page 80. You can see down the bottom there, 13 July 2017, an email from Mr Sanber to you. "As requested, please see attached the revised pricing submission based on the site meeting on 11 July 2017 and the scope of work document provided in your email below." You see that?---Yes.
20

And so that's relating to the discussions that we've just seen where you're telling him to lower the price?---I suspect so, yeah.

And then you respond by forwarding that email on to your colleagues at Downer, saying, "Please find attached Sanber's revised pricing based on revised scope of works. I tried to get hold of Nathan today but he's too busy. I have spoken with Greg. It's best to finalise Sanber's contract ASAP and proceed as per the attached. We don't believe," sorry, I'll just wait for that to come back up. "We don't believe Rapid have the resources locked in to commence work onsite immediately after award." Do you see that?
30 ---Yes.

Is that you playing the program card again?---No, I'm pretty sure that was genuine.

Well, you see "They contacted us two days ago and requested details of plumbers, electricians and mechanical trades to assist them. This confirms our concern that they do not have adequate resources to meet our timeline."
---Yeah, I mean 13 July, if they're still at that stage, then it was never going
40 to work.

It just harks back to the Commissioner's question. What did you know about Sanber Group's adequate resources to meet the timeline?---I didn't have intimate knowledge of who they had lined up to do the work but they assured me that they will be ready.

All right. And then you said, "The price difference between the three bidders was discussed with Michelle, Fernando and Nima from Transport, and they are all in agreement with proceeding with Sanber." Do you see that?---Yes.

10

What would have happened if you think you told your colleagues and Michelle and Fernando from Transport that Nima was a partner in Sanber Group?---It would have been a problem for Nima.

It would have been a problem for you too, wouldn't it?---Yeah. I know Nima, yeah.

But also your evidence is all you wanted was this job to be completed, correct?---Yeah.

20

And it wouldn't have been completed, would it?---No.

If we can go to volume 8.1, page 230, please. Can we actually go down a bit further perhaps to page 232. You can see that a further report from, or a credit appraisal came through that, it said that the risk was updated with a strong condition and a low-risk proceed with the transaction for Sanber Group. Do you see that?---Yes.

30

And then if we go to the next page, just up to page 231, please, Mr Patel says, "Good morning, Dan and Nathan. After speaking with all the tenderers, Abdal has more confidence in Sanber as they understood the scope and are capable of delivering the works. Also, Abdal has done the reference check." So by this stage you'd deceived Mr Patel into believing you'd done the reference checks. That's fair, isn't it?---Yeah.

40

And then it's asked, they, "Sanber Group is significantly more expensive than Rapid. What is the reason Rapid are not acceptable?" And Mr Patel up on the next page responds down the bottom, "They are at the moment expensive in comparison with Rapid. It is mainly Abdal's confidence after speaking with both parties regarding them understanding full scope and

showing capability in delivering the works. At this stage we are in a position of going with either party.” Do you see that?---Yeah.

And he goes on, Mr Patel says, “If going with Rapid, then at this stage a saving of around 290,000 from current position and coming under budget but we need to ensure that they understand the full scope and are capable of delivering the project, especially deliverables for next possession. If going with Sanber, we are paying more but Abdal has confidence that they will produce the deliverables for the next possession.” Do you see that?---Yes.

10

Downer was paying more for Sanber because profit was going to you, correct?---Not at that stage.

Come on, Mr Aziz. In all honesty, you must have known by that stage? ---Like I said, I, when those discussions happened it was much later into the project.

You’re desperate to make it look like you got paid for actually doing work, aren’t you?---No. You’ll see that as this goes on. I know what I’ve done wrong and I’m happy to admit to it.

20

All right. If page 196 of the public inquiry can be brought on the screen, please.

THE COMMISSIONER: Sorry, what page is this?

MR ENGLISH: 196. This is some evidence from Mr Nguyen, Tony Nguyen.---Yes.

30 And you can see down the bottom line 33, “Had you had discussions with Mr Sanber and Mr Abdi at the time you first became involved in the Victoria Street project in relation to whether you’d be paid for your work how the profit would be split?” Do you see that question?---Yes.

And Mr Nguyen says, “There were some, yeah, so that it would be split with, I can’t recall that the split would be 50% to Abdal Aziz and then the rest, the 50, would go to us and then we split into three again.” Now, admittedly it says, “I can’t recall,” I might have to check that transcript, but it seems that he’s saying he can recall that.---I think he’s recalling that based on the end result which was when we were agreeing what should be the split.

40

Well, you agree that the question is he's being asked about when he first became involved in the project?---That, I wasn't, I didn't have those discussions that early and I don't think Tony was that involved that early in the, in the piece. His involvement was mainly with, as I understood it, with SDL.

10 And you started to become a bit concerned, didn't you, because you were a bit worried that people might realise that Seng and his team weren't actually from Sanber Group, they were a separate organisation, correct?---Yeah.

And that was something you communicated to Mr Sanber, was it, that they need to make sure that they don't let anyone know they're from a different organisation, being SDL Project Solutions?---Yeah. I mean, they had logos and things like that and if someone asks them "Who do you work for?" they say SDL and no-one knows who they are. So, it just wasn't a good look.

20 Was there ever a need for any spoil to be removed as part of the building works at Victoria Street?---I would say more rubble than spoil.

So, if the old building was knocked down - - -?---Just from the demolition works. Yeah.

- - - that needed to be taken off?---Yeah, that's right.

Now, if we go to volume 18.13, page 165. You can see the message is now in September, 5 September 2017, and you say to Mr Sanber, "You need to show your face up there. It's very suss now."---Yep.

30 Why was it very suss now?---Well, he's supposed to be leading the project but he's never there.

Is this around the time you say you came onboard to be the de facto project manager for Sanber Group?---I think that might have been the start of it, yeah. I think I asked a few times for, for them to be on the ground.

40 If we can go to page 168, please. This is the next day, the 6th of the 9th. In the middle of the page you say at 7.47am, "If you haven't been set up then email John. He will get you set up." And Mr Sanber writes back, "Not on TeamBinder with your project. Only risk is that I am on Transport for NSW TeamBinder as an employee so this may be noticed."---Yep.

Was this one of the problems, that Mr Sanber couldn't get access to the relevant documents because he was worried about being found out internally at Transport for NSW?---Yep.

And how did you overcome that difficulty?---I'm not sure if he was ultimately, or eventually, signed up on TeamBinder or if it was just via emails. I think he would have had to sign up on TeamBinder anyway.

10 All right. If we can go to volume 3.9, page 76, please. This is jumping ahead in time, it's 27 February 2018. Mr Sanber sends you the updated variation register for the Victoria Street building contract.---Yep.

Do you recall what time the project finished?---Not, not exactly. It was - - -

Or how long it ran for?---Onsite I think we were there for nine months, so I think - - -

20 Nine months.--- - - - this would have been close to finishing maybe March, April, but I'm not hundred per cent, yep.

And you can see, if we scroll down the next page, description for the variation register, first one says "email from Abdal Aziz". Do you see that? ---Yes.

So there you're responsible for giving the instructions for most of those variations to go ahead, is that right?---I think I would have had to give the instruction for all of them, yep.

30 Okay. And amount approved, if it's in red, that means it wasn't approved, is that right?---Yeah, I believe so, yep.

So if we scroll down another page, and then we go down another couple of pages to page 81. You can see that the total amount of variations there is identified as \$897,228.---Yep.

Were those all legitimate variations?---Yes.

40 Were they priced legitimately?---By Raja, you mean?

Well, did you give assistance in the pricing?---In some of them, yeah.

Were they inflated on some occasions to make more money?---Look, my personal view is that a lot of them are inflated. But I, yeah, I, I think, looking at some of these scope items, I think they would have been, some of them would have been on the high side, yeah.

And was that, at least to some extent, because you knew that you were going to be paid out of some of this by this stage?---At that stage, probably yes. But - - -

10

All right.--- - - - I guess I tried to keep it as fair as possible.

As fair as possible?---Yep.

How do you keep it as fair as possible when you know that the variations are also inflated at the same time?---Well, some of them they wouldn't agree to anything less because of it being in Maitland. But I think if you compare it to a Sydney, Sydney metro area project, I would say they are inflated.

20

All right. If we can go to volume 18.13, page 196, please. There's an email - I withdraw that. A message at the bottom of the page on 16 October 2017, where you request from Mr Sanber for him to provide his variations register to you today. Do you see that?---Yes.

Is that something you've done with other contractors, ask for their variations register?---Yeah. When, when there's a lot of variations, yeah.

30 And in this case, why did you ask Mr Sanber for the variations register?---I think I do that at end of every month.

Okay.---To, to go through it and then raise any concerns or issues with him so we can agree it before it's submitted formally because otherwise it just, it gets very complicated. So it's a lot easier if we run through it and then agree on it.

40 All right. Well, if we look to the next page, he says, "After 5.00pm, claiming approximately 120 K but you will reject 35 to 45. 80 K is for variations." And you say, "Okay, I might need to jack it up to match my forecast, 200. I'll check and let you know early next week." Do you see that?---Yeah.

Are you acting in Downer's interest when you're telling a subcontractor to jack up the variations to meet your forecast?---Well, I think it would have been percentage complete of the variations. I don't think I can just jack up the variation price. So I would have said, "Okay. If you're 50% complete, we'll put 70 to get us close to what we, what we forecasted."

All right.---It just means they're behind on progress.

- 10 The conversation is in relation to money, not percentages. Do you accept that?---I do but the money correlates to percentage complete in the claims sheet.

And then you say, "They don't like it when we short-bill them. It's got to be close to my forecast." What does that mean?---Well, I remember having discussions with the Commercial Team where I provide a forecast every month, and if it's out Transport for NSW, you know, raise concerns because they've assigned a certain budget and expenditure, and if it's not met it causes problems.

20

All right. Go back to page 143. I'm sorry we're jumping around a little bit here in time. This is the top message on 16 August 2017. You say to Mr Sanber, "Call me once you have Farshad's spreadsheet so we fill it out together. Claim should include all possession work as well. We'll smash it. It will be a good claim." What did you, well, let me ask you this, did you normally fill out variation spreadsheets with contractors?---I don't think this was a variation spreadsheet, but like I said earlier, I would review, I would review it. I wouldn't fill it out for them.

- 30 You said, "We'll smash it. It will be a good claim." You've certainly got an interest in this claim, don't you, a financial interest?---Yeah. Yeah.

Is that something you'd normally have in other projects?---No.

All right. Who was Farshad?---He's in the Commercial Team.

- 40 Okay. And if we go to page 262, top of the page, this is at 18/12/2017, "I've added more to the varies register. I'll send to you for reference shortly. I've already sent to Farshad." And you say some 19 minutes later, "I'm at my limit now and cannot push any more varies through. You will need to make it all happen ASAP so people don't start sniffing around and

asking questions. Who's casting the concrete seals and when?" What did you mean by, "You will need to make it all happen ASAP so people don't start sniffing around and asking questions"?---Well, I was worried that people are going to know that I'm working for and very closely with, with the subbie so - - -

How were they going to know that?---I don't know.

10 Is it just - - -?---Oh, I mean, yeah, so I think this is in relation to the variations register.

Yeah, it is. Yeah, varies register as you say, but is it the case that the variations were just getting so large - - -?---Yeah, there's a lot of them.

- - - in this project?---Yeah.

People are just going to, you know, rule of thumb, there's too many variations here. Something's up.---Yes.

20 And you'd reached your limit. You couldn't approve any more for RJS's benefit, correct?---I could have but I didn't want to.

Yeah, you were getting worried about it.---Yeah.

If we go to volume 3.9 page 84, so here's a notice of variation as at 9/3/2018, saying the variation is \$948,166 worth. Do you see that?---Yes.

And the original subcontract sum is \$789,804. Do you see that?---Yes.

30 And that's what you advised Mr Sanber to quote, high 700s. Do you remember that?---Yes.

And you've done more than the original quote in variations. Do you see that?---Yes.

And you've signed off on this on 9/3/2018, correct?---It looks like it, yeah.

That's your signature?---Yes.

40 And from time to time did you also fast-track payments to Sanber Group to assist with their liquidity in the project?---I would follow up payments. I

don't think I can fast-track anything. It is a pretty rigid finance and accounting process that has to go through.

If MFI 10 can be brought on the screen, the Victoria Street Station slide, please? All right. So this is a slide that was prepared for the purposes of the Victoria Street Station project. Is that right that you received 50% of the profit?---No, that's not correct.

10 How much do you say you received?---The final split would have been fifty-fifty between myself, Tony, Nima, who would get 50% and then the other 50 would have gone to Raja.

So, sorry, can you just assist and break that down a bit more carefully. Who do you say got 50% of the profit?---Myself, Tony and Nima.

So you say you three would have split it between you?---Three way, yeah.

So you're saying you got 16.66% of the profit?---Yeah.

20 And then who got the lion's share, the 50%?---It was Raja.

Raja, you say.---Yeah.

Can we go, please, to volume 8.1, page 206, please? And while that's coming up, how do you say you received your money in this?---It was cash for Victoria Street, yeah.

30 Okay. And how much do you say you received?---Pretty sure it was 80. Between 40, or between 60 and 80.

Thousand dollars?---Yeah.

Okay. This is a - - -

THE COMMISSIONER: Sorry, how and where was it paid to you?---It was in stages. It wasn't in one go. And - - -

40 How many stages?---I remember two but I'm pretty sure it was three. And those two - - -

What quantities?---One of them I got 40 and then something like 20 and 20, from what I can remember.

And where was it paid?---Those two times it was a, it was a car park.

Where?---One of them was a McDonald's car park and the other one was a, like a, like an RSL-type car park. I just can't remember which one.

10 Do these places have names or locations?---I, I can't remember the RSL. It was somewhere I haven't been before and I just put it in the GPS. The, the McDonald's one, from memory, was in Blacktown.

Where was the third one?---I can't recall. It would have been, I would say it would have been a similar arrangement.

MR ENGLISH: Here you can see there's an email to rajasanber@[REDACTED] from a Guerrilla Mail address on 17 April 2018. Do you see that?---Yes.

20 Is that you sending this email to Mr Sanber?---I, I saw this presented last week but I, I have used Guerrilla Mail but the spreadsheet attached to this it, half of it didn't make sense to me, so I don't think I put that together.

Okay.---So I started to think, well, I'm not really sure if I sent this or not, but I know I've used Guerrilla Mail in the past, yeah.

Yeah, well, was anyone else in the group - Nima, Raja or Tony Nguyen - using Guerrilla Mail?---Between them, I, I don't know.

30 What about to you? Did you receive any Guerrilla Mail emails from them? ---I don't remember specifically, no.

Okay, well, if we go down to the next page you can see costs from Raja's bank statement. Do you see that?---Yes.

There was an issue, wasn't there, that you thought Mr Sanber wasn't being honest in the costs of the project. He was inflating them.---Yeah, we all thought that, yeah.

40 Yeah. He provided - that is, Mr Sanber - provided a version of a bank statement to you three?---Yes.

And from that someone has sought to reconcile the total costs and profitability of the project, you agree?---Yeah.

And you see “profit breakdown”? Whoever drafted this spreadsheet says the total profit is \$872,985. Do you see that?---Yep.

And assigns half of that to you, AZ. Do you see that?---Yes.

10 And that comes to \$436,492. Did you receive that amount of money from this project?---No. No way. That’s, that’s not what really got paid.

Okay. If you look on the left it says “credit to AZ as of 15 April 2018”. Do you see that? \$370,895.---Yep.

It suggests that you’d already been paid that amount.---No, those payments for all three of us. It wasn’t, it wasn’t to me and it wasn’t that amount because when we received it a big chunk of it would be gone, right?

20 What do you mean gone?---So for Raja to pay us in cash he had, he had to pay for that to happen. So - - -

What do you mean by that, he had to pay for that happen?---Well, to, to get it cashed out, right, whoever was cashing it out would take a cut. So, so we would have ended up with 40/50% less than what, you know, he would have sent, right? And then the breakdown here is also incorrect because it was a fifty-fifty and then Nima and Tony were the ones who agreed to share their profit with me because Raja, well, he didn’t want to share profit with anyone.

30 So just tell me, so you understood Raja to be paying someone or had some service to get cash to the rest of you for a fee?---Yeah, yeah.

Who was he using to your knowledge?---It’s, it’s in the statements. I - - -

Is it Sadco or something like that?---Yeah, yeah. He marked it on the statements and when we asked him, you know, about it he said, “Oh, that’s how you, that’s how you’re getting paid.”

40 But what exactly, so what, you understood that they would issue an invoice and he would pay that invoice and the money would be returned somehow in cash lesser a commission or something?---Yes, correct.

And you say the commission was 30 to 40%, do you?---Probably more than that in some instances.

Are you just guessing at that?---No, no. I remember, I was going through it with, with Nima and Tony and saying, "This is really short." You know?

But couldn't that be because Mr Sanber was just paying himself out - - -?
---Well, look, we, we couldn't prove that at the time and, yeah.

10

Do you accept out of - if we just go back up the page to the next page. The only people that could have sent this email, it wouldn't be Mr Sanber sending it to himself using Guerrilla Mail, would you - - -?---No.

So it's either got to be you, Nguyen or Mr Abdi, correct?---Yeah.

You seem to be the one who used Guerrilla Mail, would you agree?---Yeah, that's correct.

20 So it's most likely it was you that created this spreadsheet, would you agree?---No, no. I, if you go through the spreadsheet, I mean, the breakdown in there - - -

If you want to go back down.---Yeah.

What makes you say in the spreadsheet that it wasn't you who - - -?
---Because I wouldn't know where to where to allocate that, all of that breakdown, right? These, like, the lists and names, they mean nothing to me and then the miscellaneous, I wouldn't even know what, what would go in
30 there to apply to the job and then all these farm costs, I have no involvement in any, at that stage, in their farm business. So I couldn't allocate those costs to those columns.

You did say you had looked at farming ventures with Mr Abdi in the past.
---Yeah and it never worked and then I stayed out of, out of it and I know, I know him, Tony and Raja were growing stuff and, and building greenhouses but I couldn't assign costs to, to say, okay, that's the farm cost and that's a business cost. So I couldn't have put this together even if I wanted to.

40 Have you ever seen - - -?---And if this is in Excel, I think you can see the metadata which would clarify that I would say.

Had you seen the bank statements that Mr Sanber supplied?---Yes.

Didn't he mark on some of those what were farm costs?---Yeah, I think, I think he might have done.

So that would have given you the opportunity to enter that data under Farm, would it not have?---If they were all marked, yeah. I didn't put this together.

10

And now if volume 3.9, page 114 could be brought on the screen, please. 3.9, page 114. This is a spreadsheet Mr Sanber created. Have you ever seen this?---You mean back then?

Well, back then, well, prior to this public inquiry have you ever seen this spreadsheet?---I, I don't remember, no.

Okay. It seems to suggest that he might have paid himself \$221,000 as a director fee. Do you see that?---Yeah.

20

Did you ever have a discussion with Mr Sanber about that?---I don't think specifically, no. I think at the later stages I didn't talk to him too much after the job finished. And I basically left it with Nima and Tony to argue.

And so as far as you understood it was Nima and Tony who went back to Mr Sanber to try and - - -?---Yeah. Yeah.

- - - make sense of his doctored bank records and the like?---That's right. Yeah. I mean, they shared some of the statements and stuff with me and say, you know, "Here's all we've got," but I don't think I was communicating with Raja at that stage.

30

All right. And are you aware whether any threats were issued to Mr Sanber during that stage of negotiation?---No, I'm not.

Okay. And a search warrant was executed at your house on 27 April 2021. Is that right?---Yeah.

40

And on that occasion did you tell Commission officers that you weren't involved in the tender process for Victoria Street?---Maybe, yeah.

And that would have been untrue?---Yeah.

And did you see that you had no authority to authorise variations in relation to that project?---I don't remember that specifically, but that wouldn't have been true either.

And did you also say you had no authority to authorise progress claims?---I don't know. Is that at my place?

10 Yeah, at your place?---I couldn't remember that.

And did you tell Commissioner officers that you hadn't received any profit or benefit in relation to that project?---Well, considering how freaked out I was, maybe, yeah.

And did you make those statements insofar as they were false wilfully to Commission officers?---I don't think it was wilfully. I think I was just shitting myself.

20 Okay. So you cut ties with Mr Sanber after Victoria Street. That's right, isn't it?---Yeah.

And then the decision was made to start a new company to tender for more works and the Central Station project came round.---Yes.

Can we go to volume 1.2, page 41, please. Down the bottom you can see an email from Tony Nguyen to you on 18 June, "Dear Abdal, thank you for giving RJS Infrastructure Group an opportunity to carry out the works for Victoria Street Station upgrade." Do you see that?---Yep.

30

That was a new company, wasn't it, RJS Infrastructure Group?---Yes.

And you knew that RJS Infrastructure Group hadn't carried out the works at Victoria Street Station?---Yes.

But you forwarded your email conversation with Mr Nguyen on to Gareth Hutcherson so that RJS Infrastructure Group, that new company, could price for the Central Station conservation works.---Yes.

40 All right. So you're deceiving Mr Hutcherson there by passing that on and conveying the impression it's the same company. Do you agree?---No, I

had explained that. It's the, the directors have split up and it's a new company. But basically, yeah, they, they kicked one of the directors out. That's how I would have verbally explained it.

You would have or you did?---Well, I'm sure I did because it was a different ABN, different set-up within the Downer system, so questions were asked, yeah.

Those questions were asked, were they?---Yeah.

10

All right.

THE COMMISSIONER: According to your evidence - - -

MR ENGLISH: Commissioner, I'm told Webex has stopped. Might have to - - -

THE COMMISSIONER: Sorry?

20 MR ENGLISH: I'm told Webex has stopped. Might have to take a short adjournment.

THE COMMISSIONER: Just have to adjourn briefly and fix this up.

SHORT ADJOURNMENT

[3.11pm]

30 THE COMMISSIONER: We'll resume. Mr Aziz, you're subject to the same affirmation you took at the commencement of your evidence to say the truth.---Yeah, no worries.

Do you understand?---Yes.

Thanks. Yes.

40 MR ENGLISH: Thank you, Chief Commissioner. If volume 1.2, page 91 could come on the screen, please. Here you can see an email on 31 July 2018 from Gareth Hutcherson to some Downer staff members including yourself saying, "Morning Geraldine. We went out to tender to the following companies. Constructicon submitted, RJS submitted, Oriole did

not submit. We will likely go with RJS who I believe are an approved contractor.” Do you see that?---Yes.

And this is for the Central Station Part A conservation works, or at least the Central Station - - -?---It’s Central Station, yeah.

And were you aware that Constructicon was essentially a dummy bid?---I am aware. I’m just unsure if I was aware at that time or not.

10 What role did you play in the tender process for Central Station?---So, like I said earlier, Central was not a project that was under my - - -

Yeah, you weren’t the project manager.---Yeah, that’s right.

Yeah.---I, I can see the project manager cc’d in the emails here.

Who is that, Mr Bedwani?---Ari. No, Mr Bedwani is the project director. Mr, or Ari Kalamotas is the project manager for the package.

20 Oh, okay. There. Yep.

THE COMMISSIONER: Sorry. Who was the project manager?---Ari.

Ari Kalamotas?---Yeah. And then Ali is the project engineer on that portion of the work but anyway, for whatever reason, yeah, I was, I was running Central Station, that package at Central Station.

MR ENGLISH: So just come back to the question. What role did you play in relation to the tender?---I would have been the project manager, so
30 similar role to what I played at Victoria Street.

All right. So you would have ensured RJS got the job, did you?---Yeah.

And you probably didn’t have to do much here because Constructicon was a dummy bid, wasn’t it?---I would say so, yeah.

Well, did you know Mr Nguyen had drafted the quote for Constructicon?
---No, not specifically.

40 And what about Oriole? Who was Oriole that did not submit? Are you aware of who that company was?---No idea.

Did you tell Mr Nguyen how much RJS Infrastructure's quotes should be for this job?---I honestly don't remember but if - yeah, I probably did.
Yeah.

Was it the case you would tell those at RJS to cost it out and then show it to me and we'll see how much we can add on top?---I don't think so. I think I would give them the, the price, if anything.

10 The price that they had to come in under at?---Or to come in at.

Yeah.---But for Central Station I'm struggling to, to remember detail.

Well, were you using Wickr by that stage to communicate with Mr Nguyen or Mr Abdi?---I can't remember for Central but for, for Lithgow definitely. Central I really can't remember.

Were you still using Guerrilla Mail?---Potentially, yeah.

20 And if we go to page 306, please. You can see here, this is the progress certificate signed by you. So the original subcontract works were \$92,200 and the variations were \$418,297. Do you see that?---Yep.

So there's a very large amount of variations by comparison to the contract sum, correct?---Well, it's not, it's not variations to the scope, it's additional work that was put onto the same subcontract as a variation.

And were those works more in the nature of a fresh package?---Yeah.

30 How come that didn't go out to tender?---It did go out to tender, I believe.

But wasn't it just awarded by way of, as you said, variation to RJS to complete the works?---After it was tendered, that's my understanding, yeah.

Yeah. So the original 92,200 were tendered.---Yeah.

But then for the balance of what's marked as variations, none of that went out to tender, did it?---I thought it did.

40 You thought - -?---That, so that package of work, I think it had to do with the, with the services, service tranches.

If we go to the next page you can see a breakdown of what's called the original scope and the variations. Do you see that?---Yeah. Can you zoom in?

There's something called CSR works that are pretty large there, I think. ---Yeah. So that was a separate package of work that was added to the contract.

10 It didn't go out to tender, though, did it?---I thought the engineer who was looking after it did take it out to tender but I wasn't involved in the early stages of that one. It came to me when it became a problem.

And you received a split of the profits of this job, correct?---There was an agreement to split profits, yeah.

And was that one right at the start?---I'd say so, yeah.

20 And you were giving advice on what to charge by way of variations, that's for RJS?---For Central, I really don't recall. I mean, there was, there was enough people looking after Central. I didn't need to be I guess as involved so my memory is not, is not great.

Do you recall how much money you received in relation to Central?---The, the agreement was a, was a three-way split.

Okay.---And what I actually received for Central, it was, it was lumped together with Lithgow so I couldn't tell you the exact split between them.

30 Could I just ask you this. Three-way split, so you would have received one-third of the profit, is that right?---That's the plan, yeah.

In relation to Victoria Street where you've done the lion's share of the work, on your evidence, how come you agreed to only take 16.66% of the profit on your evidence?---Well, there was no agreement to be otherwise, so this is a little bit different where we've agreed this upfront.

40 Well, what was your, when you say you decided to be paid or you struck an agreement to be paid for Victoria Street, who did you strike that agreement with?---I would have discussed it with all three of them but at the end it was pretty much with, I would say, Tony and Nima.

And what was the agreement that you reached with them as to how much you'd be paid for Victoria Street?---That it would go three ways.

Three way of 50%.---Yeah.

And it was agreed, you say, that Mr Sanber would take 50% of the profits. ---That's right.

10 Okay. What did you understand, other than providing a company, what did he do for that money?---Oh, look, he, he did work. I'm not saying he did nothing. It's his, the company was in his name and he, and, and the liability was on him, right? I'm not a shareholder or a director of any kind so, you know, he did, he did, he did work.

All right. Well, if we can go to page 377, please. This is a spreadsheet prepared by, when it comes up, Mr Nguyen. If we can zoom into Central Station, please. Yeah. You can see there it's identifying a profit of 218,000
20 GST. Do you see that?---Yeah.

Is that what you received?---Potentially, yeah.

Okay. And how did you receive that, on invoice or cash or - - -?---Yeah, invoice.

Was that a Tresca invoice to someone?---Correct. Yeah, to JTG.

30 And JTG being Mr Abdi's company.---Correct.

Okay. And who performed these works at Central Station? Was there a labour-hire agreement?---Yeah. Yeah, it was labourers, so I know Tony was more involved in that one. He had to coordinate and make sure the labour force was doing what they needed to do.

Sure. Was it Seng again? Was it Seng, Mr - - -?---Seng was there, yeah.

40 Yeah, SDL, his company, doing the labour agreement?---I'm pretty sure it was, yeah.

Yeah. And were you onsite there for that job?---Not a lot.

Okay, so how did you contribute to the success of the project?---I think it was more of a finder's fee for Central, to be honest, rather than me doing work for them.

Okay, but you gave some assistance in the tender phase, is that right?
---Yeah, that's right.

10 And you assisted with the variations as they came along?---Not so sure of that because - - -

Were they - sorry, go on.---Sorry, yeah. The, the variations, they typically go to the engineer or the people who are on the ground looking after the job. I just wasn't close enough to it.

All right, well - - -?---And then, yeah.

20 Were you offering the same service where you'd look at the variations register before it would be submitted?---I, I don't remember that for Central.

All right. And were you responsible for approving payment?---Yeah.

Okay. All right, in relation to the Lithgow project, how did that come about?---It was a variation to Downer so it was never part of the scope of the NIF project, so it was a bit of a late addition by Transport for NSW and, yeah, it was, it was priced and, and gone to tender.

30 All right. If you see, while we've got page 377 of volume 1.2. You can see again this is Mr Nguyen's spreadsheet for Lithgow where he identifies a profit of 730,000. Did you understand that to be the profit figure for Central? I withdraw that, for Lithgow.---I don't remember the exact number but it looks right.

And a split, a three-way split to, which would have been to Mr Nguyen, yourself and Mr Abdi of \$243,000 each?---Correct.

And you received that on invoice with Tresca, did you?---Yep.

40 All right. Now, if we go, please, to volume - perhaps I can do it this way. RJS Infrastructure's quote was originally \$1.291 million. Do you recall that?---I don't recall that, no.

Okay. Do you recall a provisional sum increase for \$300,000 being added?
---Yeah.

Okay. If we then go to volume 1.3, page 20, please. You can see there that's after the provisional sum has been added in of 300,000. The quote's 1.591 million or so. Do you see that?---Yes.

10 Exclusive of GST. And then if we go to page 26. See, the quote was on 4 April 2019. And then we can see there on 8 April you say to Wing Cheng, "Can you tell me what the prices are for each of RJS, Kilmac and Dalski? I'm putting together a table for us to use this afternoon for tender eval." Do you see that?---Yep.

20 And then you can see, this time we have to go to volume 1.3A because it was - you were provided with this information but I'll just have to bring it up in another form. So Wing Cheng says to you, "Hi Abdal. No worries. Please note I have kind of put one together already. Refer enclosed. Note I have all the inclusions and exclusions from the quote. I hope this is all right." And then if we go down, and if we increase the size there a bit so we can read it, please? So you can see, so there's the Lithgow Station pricing schedule. The budget is 1.291 and then you can see what the different quotes are down the bottom for Kilmac, Dalski and RJS. Do you see that?--
-Yes.

And they're all over budget. Do you see that?---How do you mean? Oh, you mean the - yeah, yeah, I know what you mean. Yep.

30 And the tenderer that's least over budget is Kilmac Civil. Do you see that?
---Yes.

Do you recall why Kilmac Civil wasn't awarded the works?---Not specifically. We, we wanted them to do it initially and then I have a vague recollection of them pulling out or saying they're not able to, to commit to it after submitting their bid, yeah.

And then if we go to volume 1.3, page 27. This is a Lithgow tender review that you prepared on 8 April 2019. Do you see that?---Yep.

40 You've said for RJS, Aidan, construction manager. That's Mr Cox, correct?---Yes.

Tony, that's Nguyen, PM for project manager?---Yep.

Who is Eddy, site supervisor?---Must have been their site super.

THE COMMISSIONER: Sorry?---it must have been their site supervisor on the ground.

10 MR ENGLISH: All right. You said "Strong engineering and site delivery team based on TAP performance." Do you see that?---Yep.

Who was part of the engineering team and site delivery team from previous TAP jobs that were going to do the Lithgow job?---I think predominantly Aidan to be honest.

But he hadn't worked on a TAP project for RJS prior to Lithgow.---Well, yeah, Tony has but Aidan has delivered quite a bit of rail projects before.

20 Yeah, but Tony wasn't onsite for Victoria Street.---For, yeah, that's right. He was on this one though.

And then you said, "Past experience with Downer, Victoria Street Station and Central." Well, Victoria Street was a different company, wasn't it, with Mr Sanber?---Technically speaking, yes.

And "Financial capability, 30 million turnover." Where did that come from?---I would say from Tony.

30 Well, you knew it wasn't true, didn't you?---Look, I, I knew they were doing quite a few jobs but I would say that's probably high. Just to clarify, I don't think I actually - this seems to be just a working version of me putting something in as a draft. So I think this came out of the draft folder rather than being a final cut of an email.

So you're saying you didn't pass this information about \$30 million over to any other staff members at Downer?---I don't think so. I mean, it looks like I haven't sent this. So - - -

40 If we go to page 32, please. You can see here 12 April 2019 a Guerrilla Mail to tonynguyen@[REDACTED]. Do you see that?---Yes.

This is you sending this email, isn't it?---Yeah.

Were you telling Mr Nguyen how to respond to Gareth, the quantity surveyor?---Yep.

10 And you say at the bottom, "I will push to have the provisional sum spread across the scope items to ensure no risk of challenging our claim. There is a risk that Downer will request substantiation, et cetera, and result in losses. I will discuss this with him verbally, tell him we've covered all the temp work, night shifts, et cetera, so there's no point calling it a provisional sum."---Yep.

So you're telling him that so the invoices that are eventually put in by RJS are approved and paid by Downer?---It would be easier to, to do that. So the provisional sum was a little bit messy, right? I can't remember how it came up but the design that was released wasn't the finished design.

20 Yeah.---And there was a few risk elements where RJS, from memory, weren't willing to take. So to try and, well, I think Transport for NSW had a preference to do it this way, to make sure the ceiling price doesn't change for them, and they said, "Okay. Let's agree a provisional sum where, which captures all of these unknown risks into that pot including design and whatever else was there," and RJS were, from memory they were happy enough with that but they had concerns that I could say, or somebody from Downer would say, "No, we're not paying that." So sort of a, important for RJS that this provisional sum is approved.

30 All right. And if we can go to page 42, please. You can see there Mr Nguyen on 16 April is emailing an org chart to Gareth Hutcherson at Downer. Do you see that?---Yep.

And if we go to the next page you can see the org chart.---Yes.

Did you ever see this document at the time it was sent or around that time? ---I don't recall.

Okay. Are you aware whether this org chart is accurate?---I mean, to me it looks plausible.

It looks plausible, does it? All right. And do you know how much you were paid for the assistance you provided in relation to Lithgow?---To be honest I'd have to look at my bank account to give you an exact figure.

All right. If we can go to volume 1.2, page 377. Right, so this is what we were shown before, sorry, and you agreed that it looked about right that you were paid 243 odd thousand dollars.---Yeah.

10 Were you aware that some of the costs of this project had been inflated to reduce the profit figure that was shown to you and Mr Abdi?---I recently found out, yeah.

Yeah. So if we go to volume 1.3, page 367. This is a spreadsheet that Mr Nguyen kept. Have you seen this by paying attention to the public inquiry? ---Correct, yeah.

All right. And did you see this spreadsheet when Mr Nguyen and Mr Cox were asked questions about it?---Yes.

20 So you see it identifies that it looks like there was an extra 526 odd thousand dollars made on this job than you were aware of. You're shaking your head there.---Yeah.

Does that annoy you that you were not informed of that additional money that was made by RJS Infrastructure Group over the course of this project? ---Not so much annoy me. I think it's, I, this was done throughout, yeah. There was a lot of spreadsheets that were put together by certain people and most of the time they were falsified, and for whatever reason I didn't think Lithgow was that way. I had more faith in Tony and Aidan. But, yeah, it is what it is, it's - - -

30

Did you understand that Aidan was being paid by the hour for Lithgow rather than as a profit share component?---I don't think I was across that level of detail, to be honest. Sort of, Aidan, I knew Aidan was working for part of RJS. I don't know back then if I knew how much or how, or what that agreement between him and Tony was, and Nima.

All right. I was asking you some questions about the profit split on Victoria Street. If we can go back to volume 8.1, page 207. Remember this spreadsheet. This is the Victoria Street spreadsheet and you said that it wasn't you who created this spreadsheet.---Yep.

40

And you denied being paid half the profits of this project.---Correct.

And it was attached to the Guerrilla Mail email, which if we can just go up one page, you'll, if we can just go up to page, one page to page 206, just so you can familiarise yourself with that.---I remember that, yep.

10 Yep. I might just show you, we've been able to uncover the metadata relating to this spreadsheet. I'll just have that brought on the screen. Here you can see, if we go back up, sorry, it's for RTNA1-Copy 2.xlsx, and that's one of the spreadsheets, we can go back if you like, that's an attachment to the Guerrilla Mail email.---Yep.

And if we go down, please, to the next page, you can see "last author saved by", it says Aziz. Do you see that?---Yeah.

So that suggests you were the author of the spreadsheet or at least one of those spreadsheets.---I couldn't have.

20 Why couldn't you have? I'll just bring up - there's another page, if we go down again, for the next attachment to the email. It might need to be brought up separately. So this is the document RTNA1-Copy3-xlsx, and that's the second attachment that was at page 206 of volume 8.1.---Yep.

And if we go down again we can see that you're the author and the last author saved by. You're identified there. Do you see that?---Yeah.

30 So again it suggests that both these attachments to that Guerrilla Mail email were authored by you. What do you say about that?---No, I don't agree with that. It doesn't even make sense to me. There's names in there that mean nothing to me. There's Michael, Paul and all kinds of names that I, I wouldn't know what to allocate to them.

Well, if we just go back to - sorry, before I do that, Commissioner, can those four pages be marked as an MFI, please, and tomorrow we'll bring them in hard copy and tender them? They're not part of a brief. I think we're up to MFI 13.

40 THE COMMISSIONER: MFI 13.

#MFI-013 – EMAIL ATTACHMENTS

MR ENGLISH: Thank you. If we can go back to volume 8.1, page 206, you can see there that that's just the Guerrilla Mail email that we've seen but just so you can see, RTNA 1 Copy 2 and then RTNA 1 copy 3.---Yep.

10 And if we go back down to page 207. So you're the author of this and down the bottom right it says, "Credit to AZ as of 15/04/2018, \$370,000." Is it your evidence on your affirmation that you didn't receive that money?---No.

How else do you explain that entry there that suggests that money is a credit to you as of 15 April 2018?---Well, I think whoever put this together would have wanted it to, wanted to inflate that.

20 Are you just trying to distance yourself from the figures on the spreadsheet?---No, I'm not. If, if I got that money I would have told you I've got that money. I mean, what difference does it make if it's 300 or, or 100. It, it, I told you, I took the Lithgow money that I got. I was clear about that. This is not what we got and that wasn't the agreement. So, there's two other spreadsheets that have Victoria Street splits that contradict this, Commissioner. So I, I don't know how else to explain it. And my initials are not AZ.

You had Mr Abdi, through JTG Services, issue some invoices to Downer for work that was never completed, correct?---Correct.

30 Here were three invoices and we'll probably come to them tomorrow but I just want to understand, those invoices have a narration something like "CAD survey plans" or something on them. Perhaps if we bring one of them up. Volume 8.1, page 78. Oh, I'm sorry. If we bring that up you can see that's something slightly different. I might just change, sorry. Can we go to volume 2.3, page 4? Sorry, I'm getting the invoices wrong again. That's an invoice from Tresca to JTG in respect of consulting services from March to August 2019.---Yeah. I know which one you're talking about though for the JTG, yeah.

40 Let me just have that brought up, and I'm sorry I've delayed you there, Mr Aziz.---That's okay.

It's volume 2.3, page 60.---Yep.

So this is an invoice of the 15/1/2020 from JTG to Downer EDI Works and it says "CM CAD services. Survey and set out for NIF SSEW project, northern sites".---Yep.

That's physical work, isn't it, a CAD service and a survey?---Yeah.

You've accepted that no work was done but this invoice was paid to JTG. ---Yep.

10

How was it that that was able to occur within Downer in the absence of physical work being handed over?---Well, the work was completed, or I should say mitigated.

What does that mean, the work was mitigated?---It, it means we didn't actually, we worked out a different methodology of doing the work which meant the, the survey component of it was no longer applicable.

Okay. So the larger project of works were completed.---Yep.

20

But there was no need for the survey to have that work done. Is that right? ---Correct. Yeah, this is specific, so CM stands for car markers.

Car markers.---Which is basically the markings for where the train stops.

Okay. And so is there not a process of checking within Downer where invoices come in, to your knowledge, and say, "Where's the work for this? Where do we find these plans and surveys?"---I don't think so.

30 Did you - - -?---I mean, for this instance, no.

Did you sign anything to say, "I've received this"?---No.

Do plans and surveys like that generally get saved on a particular server at Downer?---Well, this was more than a set out rather than a survey deliverable, so it would have been done in the field.

40 If this was real work and it was to be saved, where would this have been found within Downer if someone was to look?---Oh, it would be in the project file, or files, I should say.

Well, it says NIF Stations and Signalling Enabling Works project. Was that a particular project at Downer, was it?---That's the NIF project, yeah.

Okay. And so if this work had actually been performed there would be a folder there or something that it would be saved onto. Is that right?---There should be, yeah.

Okay. And no-one asked any questions on this occasion when this invoice was received stating that this work had been performed?---Not to my
10 recollection. No.

All right. I'll just quickly, Chief Commissioner, I wonder if, if we can go to page 63, please, again, so this is an email from steve.johnson@jtg, apparently, through to someone called Nerida, and if we go down to the next page we can see another invoice, this time 25 May 2020. Again, CM, you've said, "Car marking as-built surveys for NIF SSEW project portion 2, incl. update of GIS starter and coordinates." Do you see that?---Yep.

Again, that's actual physical work that's purported to have been performed
20 in the form off a survey or plans with particular data and coordinates included, correct?---Yeah.

And again, it wasn't actually performed?---The as-built was performed, just not by, not by JTG.

What, so some other company performed that work and - - -?---No, I believe we self-performed that.

What do you mean self? What does that mean?---As in the Downer team
30 performed that.

Why didn't someone pick up then, to your understanding, that it was being charged for work that the team had already done itself?---I can't answer that.

Okay. And just lastly, if we might just go to page 65 and then onto 66. Again, "CM as built survey coordinates for NIF SSEW project portion 3 South Line Illawarra stations including updated GIS start and ASDO data correlation."---Yep.
40

Again, a physical product that would ordinarily be supplied in connection with that work?---More drawings than a physical products with the as-builts but, yeah, it's the same.

And nothing was supplied?---By JTG, no.

Yeah. And it's 23/6/2020, this invoice?---It appears to be, yep.

10 And it was paid and no-one asked any questions, did they, about where the work was?---No, because the work was done.

All right. So this was money that Transport was paying to Downer, was it, to undertake various works in relation to the NIF project?---Yes.

And what, was this, the money that paid these three invoices, was that leftover in a budget or something that was just sitting there?---I'm not too sure, to be honest.

20 You must have known that these invoices would have been paid before you asked Mr Abdi to falsify these documents.---Sorry, what do you mean? Do you mean the project budget?

Yeah, you must have realised there was capacity for these invoices to be paid.---Well, the project was quite healthy, yeah, but I don't think there was specific breakdown for, like, not that I remember, anyway.

All right. Okay. Thank you. I note the time, Chief Commissioner.

30 THE COMMISSIONER: Yes, we'll continue with your evidence tomorrow, Mr Aziz. Adjourn.

THE WITNESS STOOD DOWN [4.05pm]

AT 4.05PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.05pm]

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