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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE JOHN HATZISTERGOS AM
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION HECTOR

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 13 APRIL, 2023

AT 11.00AM

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.

MS DAVIDSON: Chief Commissioner, if I could commence by tendering the brief volumes in relation to the next witness who is Mr Pilli. I tender volume 9 entitled Sairam Pilli. I think the next exhibit would be 156.

THE COMMISSIONER: Volume 9?

MS DAVIDSON: Volume 9, Sairam Pilli.

THE COMMISSIONER: 156.

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#EXH-156 – PUBLIC INQUIRY BRIEF - SAIRAM PILLI

MS DAVIDSON: And I tender volume 9.1, also entitled Sairam Pilli.

THE COMMISSIONER: 157.

20 **#EXH-157 – PUBLIC INQUIRY BRIEF VOL. 9.1 – SAIRAM PILLI**

THE COMMISSIONER: Thank you, Chief Commissioner. Mr Pilli is present at the back of the Commission. His legal representative is appearing via the AVL link, as I understand it.

MS AL KHALDI: Yes. Good morning, Chief Commissioner. I appear for Mr Pilli. Al Khaldi for the record.

30 THE COMMISSIONER: Yes, Ms Al Khaldi. I think authorisation has been granted.

MS AL KHALDI: It has.

THE COMMISSIONER: Yes. Mr Pilli, would you come forward. Now, I understand you wish to take the oath. Is that correct? You can remove your mask. Thank you. Please take a seat. Follow the instructions of the associate.

40

THE COMMISSIONER: Please take a seat, Mr Pilli. Ms Al Khaldi, have you explained to the witness the provisions of section 38?

MS AL KHALDI: That's correct, Chief Commissioner. I have explained the section 38, and will be making an application for the protection and the objection of all evidence that would be provided today.

10

THE COMMISSIONER: Thank you. So, Mr Pilli, as a witness you must answer all questions truthfully and produce any item described in your summons or required by me to be produced. You may object to answering a question or producing an item and the effect of an objection is that although you must still answer the question or produce the item, your answer or the item produced cannot be used against you in any civil proceedings or subject to two exceptions in any criminal or disciplinary proceedings. The first exception is the protection doesn't prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, including an offence of giving false or misleading evidence, for which the penalty of imprisonment of up to five years. The second exception only applies to New South Wales public officials. Evidence given by a New South Wales public official may be used in disciplinary proceedings against the public official if the Commission makes a finding that the public official engaged in or attempted to engage in corrupt conduct. I can make a declaration that all answers given by you and all items produced by you will be regarded as having been given or produced on objection and that means that you do not have to object with respect to each answer or the production of each item.

20

30

Ms Al Khaldi has informed me that she has explained that to you and she is instructed to seek a declaration under section 38. So what I'm going to now do is make that direction. So pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

40

DIRECTION AS TO OBJECTIONS BY WITNESS: PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

THE COMMISSIONER: All right. Do you understand what I've said? You're nodding.---Yes. Yes, Commissioner.

Thank you. All right. Now Ms Davidson is going to ask you some questions. Please keep your voice up.

MS DAVIDSON: If you can perhaps move a little closer to the microphone that you see there, Mr Pilli. Could you tell the Commission your full name and age.---Yeah. My name is Sairam Reddy Pilli. My age is 31 years old.

Are you currently employed, Mr Pilli?---No, I'm not.

Do you hold a Bachelor of Civil Engineering degree?---Yes, I do.

Did you obtain that from the University of NSW?---Yes, I did.

I need to ask you to keep your voice up.---Yes, I did.

Was that in 2015?---2015/2016.

You graduated in?---2016 I think.

Right. And after that did you commence work as a project engineer at Hargraves Urban?---Yes, I did.

And what did that role involve?---It involved, it was essentially, I started off as a site engineer and moved to a project engineer within that role. Involved pretty much site engineer activities so booking concrete, looking at the

quality assurance and helping the supervisor onsite ordering materials and, yeah, any other things that they needed help with onsite.

All right. So a site engineer was more senior than a project engineer role in that context?---No. Site engineer is more junior, yeah.

Site engineer is more junior. So after Hargraves Urban did you go and work in a site engineer role for Burton Civil Engineering Contractors?---Yes, I did.

10

And that was in 2016.---Yes.

And what did that role involve?---Similar work. So again procurement, helping close out defects for a project that, that I was on and any, any other work that a senior, my senior engineer sorry what else wanted me to do.

All right. And how long did you stay there?---For about six months I think.

All right. And then where did you move next?--- Ferrovia.

20

Ferrovia.---Yeah.

And what did you do at Ferrovia?---Site engineer as well. So I was a, I was a utilities engineer helping with the Utilities Team in the beginning and then I moved into the Pavements Team so helping with the roadworks.

And how long did you stay at Ferrovia?---Say from March to, over 18 months, a little bit over 18 months.

30 Is that till about November 2018?---Yes, that's correct.

Did any of the work that you did at Hargraves or Burton or Ferrovia involve rail projects?---No.

Right. And was it in November 2018 that you started work at Downer?
---That's correct.

And what was the position that you commenced in?---Site engineer.

40 All right. And were you assigned in that context to the Kingswood project?
---Yes.

Did you resign from Downer in December 2020?---That's correct.

All right. You commenced as a site engineer at Downer. Were you subsequently made a project engineer?---I was, yeah.

Do you recall when that occurred?---I think that was around early, sometime in 2019, at the start of the first half of 2019, the first - - -

10 Was that while the Kingswood project was going on?---Yes.

Right.---Maybe around the time it commenced or maybe before or after but around that time.

Okay. Who is your supervisor on the Kingswood project?---So we had two. We had Matt Howell in the beginning and then Tony Schasser after.

All right. And the project manager in relation to that?---Yep, Andrew Gayed was the first project manager that was assigned then Vlad and then
20 when Vlad went on leave Kevin Watters was the project manager filling in.

All right. Was that a short period that Vlad was on leave?---It was for about six weeks - - -

Right.--- - - - when he went on his honeymoon holiday.

Yeah. And did he come back after that as project manager?---Yes, he did.

Right. So for the majority of the time Vlad was the project manager in
30 relation to - - -?---That's correct.

- - - your work at Kingswood?---Yes.

And you mentioned having other supervisors. Were they working on the Kingswood project those two individuals or - - -?---Yes. Matt Howell was there in the beginning and then I think he got terminated sometime around April or, or March and then Tony Schasser was the supervisor after I came in.

40 Right. And what roles were they playing - - -?---Supervisor.

- - - in relation to the project?---Supervisor.

Site supervisors.---Site supervisor.

Okay. And did that mean that they too were working under Mr Stanculescu?---Yes.

That is Vlad?---Yes.

10 Right. So can you explain how the role of the site supervisor worked relative to the project manager?---Yes. So the site supervisor will generally deliver like the project onsite or manage the labourers and the traffic control and all that and also the safety aspect, the actual implementation of safety procedures onsite. He's also responsible for coordination of staff, for labour staff and, and plant and machinery onsite and, you know, the actual delivery of the work, you know, managing labourers who are shovelling and all that.

20 Right. And the project manager, how does that role differ to the site supervisor?---Project manager is, is, would be considered the head of the project. So generally project managers in my understanding have executive authority over everyone else on the project. My understanding is that project manager is a financial role and, and a senior role so they look after the overall delivery of the project and, and the primary client interface of the project as well. So, so essentially he's like, from our end he's the boss of the project, for us.

30 All right. Does your role as site engineer and then project engineer involve more responsibility than it otherwise would have as a result of the manner in which Mr Stanculescu was managing the project?---Yes, it did.

40 So how did that come to be? Can you explain?---Yeah, I was, Vlad wasn't always on site, so he was absent for periods. Sometimes he wouldn't pick up his phone calls or be available. So for parts of the project I was the next person that was available for the client. So sometimes I was just pushed into difficult situations as well where, you know, there was no-one else that I could rely on, you know, for, for guidance or anything, and I was just, I was the only one there so, you know, I was sometimes pressure by clients and subcontractors, you know, like, "We need this now," you know, what, what can we do, and, you know, sometimes Vlad wouldn't answer his phone and there were works happening on site.

So when you say you were the next person, what about the site supervisor, were they - - -?---The site supervisor as well. So the staff supervisor deals with the staff on site from an engineering perspective or from a work planning perspective. I would, I would help. I would assist with that. I would look after that.

All right.---So if there's a problem with, like, an engineering aspect, if there was like a concrete pour or a schedule activity, like, if we're supposed to start, start in three days, then, you know, I would, I would help with that.

10

So the site supervisor's role wasn't to handle those engineering or planning aspects. Is that correct?---Not entirely. To an extent, yes. Like, you know, if they had the experience they would advise us and, and they would assist, you know, me as well, if they could, but, yeah, their, their job was mostly to essentially be on site and look after the work and make sure it's happening okay.

Right. So you were left, do I understand you correctly, effectively as the second in charge when Vlad was not able to be contacted?---Yes.

20

And did that happen frequently?---Intermittently and frequently, yes, it did. It did.

Was that the entire period of the project?---Yes.

And how would you describe your relationship, your working relationship with Mr Stanculescu during the Kingswood project?---It was, it was difficult.

30 Difficult. And why was that?---I, I wasn't treated very well.

By Mr Stanculescu?---At times.

Did you explain some of those concerns at the time that you resigned from Downer in an email?---Yes.

Can we have volume 9, page 10, brought up on the screen. You will see that this is an email from yourself to Kevin Brady. Who was Kevin Brady? ---Kevin Brady was the operations manager above Andrew Bedwani.

40

Right. And did you understand Mr Stanculescu to report to Mr Bedwani?
---Yes.

And what did you understand the relationship between the two of them to be?---My understanding was that they were friends.

Right. And you'll see underneath that is an email that you'd sent a few days earlier in December 2020 to Mr Bedwani. And you refer to issues in relation to Stanculescu. Is this the email that you sent explaining your concerns?---Yes.

If we could scroll to the following page. In the third paragraph there you refer to subcontract management and scope of works, not receiving, well, receiving responses only days before for items you'd raised weeks or months earlier, including potential variations, delays and scope changes to works. "In both instances Vlad offered little support, even after I'd chased him for information and support multiple times, with Vlad oftentimes saying that items were not part of our scope or contract even though they were included in design drawings. This put an immense amount of pressure on me to deliver works within unrealistic timeframes, putting me in the firing line and providing me with little opportunity to get competitive pricing on such short notice for scope items and subsequent approvals to deliver." Did you regard your role in managing subcontractors and scope of works as being again greater than it otherwise would be, or than you had expected within a project engineer role, you to have to fulfill?---Yes, I did.

Right. And was that again because of difficulties in contacting Vlad?---It, it, it wasn't available or he - - -

30 THE COMMISSIONER: So can you just keep your voice up?---Sorry.

You've got a very soft voice.---Yeah. He, he wasn't available and sometimes he would delegate certain items to me, as well. And then he would just put them on me and then, you know, it, I was just, I was trying to deliver the project and, you know, because I was dealing with the engineering issues and the planning, you know, for the most part, you know, they, they just used to call me if they couldn't get a hold of Vlad, they just used to come see me for issues onsite.

40 MS DAVIDSON: You were more reliably contactable?---Yes.

In your view?---Yes.

And did that mean that you had a greater role in selecting subcontractors and, you know, bringing subcontractors onboard than you otherwise would have had?---No, I don't think in the selection process but in the delivery of the, of the, the scope of works, yes.

10 So you don't think in the selection process. Do you think in the procurement process, you had a greater role than you otherwise would have had?---No, I don't think so.

20 You refer in your answer to delegating work, work being delegated to you. What kind of work was it that was being delegated to you?---Yeah. So managing subcontractors, for example, the excavation permit is, is, is one aspect where it says explicitly that a project manager needs to sign off on it. Vlad delegated that sign-off to me, as well, so, and, you know, it says that either a project manager or a senior project engineer needs to sign off on that, yet he still made me sign off on that by delegating that to me. So that risk, he just, he, he put that on me, okay, if something went wrong.

Did you have a senior project engineer allocated to the Kingswood project?
---No, we didn't.

You refer at the bottom of page 11 here, you see the list at the bottom of the page?---Yes.

30 To, you being or having delegated responsibility to host, chair and minute an overwhelming majority of stakeholder meetings, schedule meetings, Vlad presumably being absent from site for multiple days a week, with little to no explanation and being absent during major site works. If we scroll to the following page? Including, I think, concrete pours, including one instance where he admitted to leaving site early to play tennis with his brother-in-law, managing and delivering entire sections of work at Kingswood and Banksia, with little to no guidance or assistance, "almost the entirety of the structural steel and concrete FRP works are managed and delivered solely by myself, with only Kevin Watters assisting me during his tenure at Kingswood, delegation to me to close items actioned to Vlad in meeting minutes, directing me to complete project status reporting," not reading emails, not answering or returning calls and putting you in the firing
40 line. Was that a fairly complete list, from your perspective, of the things that were delegated to you?---Yes, ma'am.

Right. Had you raised those concerns with Mr Bedwani previous to sending this email?---I am in, I believe, around April of 2019, or May, I had a conversation with Kevin Brady directly and I raised some of the issues that I had with Vlad in the early stages. Kevin, Kevin Brady told me that things would change and, you know, when Vlad comes back, essentially, he wouldn't be on the project and Kevin Watters or someone else would but that, that - - -

10 So this was during the period that Vlad was away on his honeymoon?---I think it was before he was away, but once he allocated his leave I was told that things would change. But nothing happened. He told me to go to, he also suggested that I go to Andrew Bedwani in the first instance with problems, but given the relationship with Vlad and Andrew, I didn't think I would achieve anything.

Were you aware of the relationship between Vlad and Andrew at that point?---As, as, as the, because I was new to the company, as the project progressed and I spent more time at Downer, I became more aware, yes.

20

Right. And did that increase your concern in relation to approaching Mr Bedwani?---Yes, it did.

But, ultimately, you did at the time that you resigned?---Yes. I, I wanted to make people aware, just so that any other engineers under me or people in the future don't have to go through what I went through.

Right. But you had resigned by the point in time that you sent this email?

30 ---Yes. I, I, I resigned, when I resigned, Andrew Bedwani called me up and asked me why I resigned. Without, I didn't tell him, I, I, I didn't give him a clear reason because I wanted to send him a letter. He, without me indicating otherwise, he actually asked me is the problem, was the problem Vlad.

He said that of his own initiative?---Yeah, he did. So he said was the problem Vlad, and I told him, I, I told him then, "I'll, I'll send you like an email with the issues," like, 'cause I couldn't, couldn't talk and explain it to him at the time.

40 Okay.---It was easier for me to write it up. And then after I sent the email to Andrew Bedwani and to, to Kevin Brady - - -

THE COMMISSIONER: Are you okay to continue? There's some water there if you need something.---They didn't acknowledge anything.

Sorry?

MS DAVIDSON: They didn't acknowledge the email. Did you receive any response from anybody in relation to the email?---(NO AUDIBLE REPLY)

10 You say in the fourth, you see on the bottom of page 12, the fourth-last paragraph there, "In both instances Kingswood Station upgrade and Banksia Station upgrade, I have been the site civil engineer on the project on site. Vlad has coerced me to act against my experience, knowledge and judgment, instead suggesting professionally incorrect solutions." Are you able to explain how Vlad coerced you to act against your experience, knowledge and judgment?---Yeah. He would, he would say if I, if I ever raised issues or tried to say we should do something some way, if he thought there was a better way he used to say, "I'm the," you know, "I'm the project manager," you know, "This is the way it should be done." One example
20 was, as I stated before, was during, during service investigation works in the Kingswood Station car park, the client didn't want us to do it and I raised it with Vlad, yet he still told me to go and do the works and I believe the client issued an NCR, it's a nonconformance report, against that. So that was one instance. As well where, you know, I, I, I told Vlad my objection and I had to send him an email to get, to get an instruction in writing because if Vlad wasn't there on site and I did that, then I would have been again in the firing line for that, even though the client told me not to go ahead with those works, so, you know, so it was situations like that where, you know, the client says one thing and Vlad still tells me to do, to go ahead.

30 And where you say you were receiving instructions from the client, who was providing instructions from the client side?---Nima was, was the client representative.

So Mr Abdi.---Yeah, for the most part, but sometimes it would just be other members of the client, like the safety team or anyone else, like, from Transport for NSW.

40 Right. You were asked an earlier question in relation to whether you received a response to your email to Mr Bedwani and I don't think there was a verbal answer. Did you receive a response to your email to Mr

Bedwani?---No, I did not. I did not receive a phone call or an email response.

And was that also true of your email to Kevin Brady - - -?---Yes.

- - - that is, when you forwarded it on?---Yes.

10 You said that you learned more during the course of your time at Downer as to the relationship between Mr Bedwani and Mr Stanculescu. What did you learn in relation to that?---Vlad, Vlad would tell me that he used to hang out with Andrew Bedwani during the weekends. He told me he visited his house in Rydalmere and they had coffee, that he used to go to North Sydney and have lunch with him.

Was North Sydney the headquarters?---Yes, for the Downer office, for the project. And then even my colleagues used to say that, you know, Andrew and Vlad and, Vlad and Andrew Bedwani were like that, so, you know, that they were tied essentially.

20 THE COMMISSIONER: Who told you that?---Huh?

Who told you that?

MS DAVIDSON: You'll need to indicate, yes - - -?---The, the, sorry.

- - - what the gesture was.---The safety officer, Matthew Swanson.

He said that Vlad and Andrew Bedwani were - - -?---Were, were like that.

30 You're crossing your fingers.---Yeah, as in that's how he indicated it. As in like they were like that. As in - - -

As in he used that gesture of crossing fingers.---Yes.

And what did you understand that to mean?---That they were very close or that, you know, they were quite close.

Right. I think you mentioned Vlad getting married in the course of a period that he was the project manager.---Yeah.

40

Were you aware of whether Mr Bedwani attended the wedding?---Yes, Vlad showed me photos of his wedding and I believe Andrew Bedwani was sitting at the front, close to the front so he, he did show me photos of that on his laptop.

In your, did you have much contact with Mr Bedwani over the time that you were working on the Kingswood project?---Not much, mostly through Vlad or when he visited on site or we had team gatherings and barbecues and stuff like that.

10

All right. In the times that you were in contact with Mr Bedwani did you see anything that would indicate a relationship between himself and Vlad?
---Not in, not in a professional environment but I think like when we were at North Sydney or there were like work parties or something they used to talk or they used to, Vlad used to go into Andrew Bedwani's office like quite easily. Nothing specific but they used to talk to each other on the phone so quite comfortably but, that's what I can remember.

20 Right. Did you have a role as project engineer in identifying potential contractors as part of the procurement process?---Yes, I did.

And did your role also involve obtaining quotations from them?---Yes.

And do you remember when you first met Nima Abdi?---It was on the Kingswood project. The first time I believe I saw him might have been towards the end of 2019 when he came into the Downer office at North Sydney but I don't believe I had any interaction with him at that time.

30 All right.---My first interaction would have been, that I can recall, may have been during the possession, the first possession we had which might have been around February. That would be it.

All right. Could we take that down off the screen, thank you. And so you indicated you had contact with him during the first possession in February. How did your relationship with him develop?---So during the initial stages it was just quite professional as well. So, you know, just as, you know, if Nima had any questions regarding the project or, or any updates just as, as I would tell any other project engineer as the project manager on the client side. So at the initial stage that was it. I think up until when I went on leave
40 in, in around March to April when I came back it was still the same and

even after that I believe it was still the same up until, up until when the, more or less when the building package got - - -

Was Mr Abdi present on the site frequently?---Here and there. There were periods where he was, he was more present and there were periods where he was absent for, for, for lengths of time and there were periods where he was onsite continuously for a week or more or there were periods where it was intermittent. But, yes, he was, he was onsite.

10 And were you based permanently on the site during - - -?---I was.

- - - the time you were working on the project?---Yes, I was.

So you said you went on leave in around March or April.---Mmm.

And then you came back. When did you come back?---At, say April, towards the end of April, mid to late April.

20 And were preparations being made for the building project after that or around that time?---No. I think - - -

Building package I should say.---No. They were being made I believe before Vlad was going on leave. Vlad was meant to submit that package himself. He didn't finish that so then he delegated that to me to finish.

Right. And when you say finish the package, that was finish the preparations for putting the package out to tender, was it?---Yes.

30 All right. So about what time was that, are you able to say?---It was before Vlad went on leave so I don't recall but it was say maybe May if I, if I had to take a guess. Around that time.

Right. So you indicated that it was around the time that the building package was being worked on that your relationship with Mr Abdi changed. What occurred at that point?---Not so much in the beginning. Nima, Nima would often when he was sitting in the office or when he used to come when Vlad was there he used to often just say use RJS for the building works packages, like as in he would just indicate like, you know, go out to tender for them. But I never thought much of it. I just thought maybe, you know, 40 he'd worked with them in the past, they were a good contractor and he was suggesting them. It was after Vlad left that Nima approached me and he

wanted me to add three, three contractors to the building works package as well. So at that time - - -

Right. Do you know who they were?---RJS was one and then there were two more that he gave me. I don't recall the exact names.

Was that SDL?---I believe so.

Was that one of them?---Yes.

10

And was the other Constructicon?---That sounds familiar, yes.

And sorry, he wanted you to add them to the building works packages?---
Yeah, yeah, yes.

20

Did you have or were you aware of any process at Downer for sourcing subcontractors to add in relation to tendering for particular packages?---No. I mean anyone who wanted to could generally just suggest and add at that time. I wasn't with Downer for long so I wasn't aware of any particular process or, nobody told me, they just sort of - Vlad I think suggested a name as well he sent me via email. So whoever had names, yeah, they decided, I, I, we forwarded them to the Tendering Team.

All right. Did you have any involvement yourself in sourcing any subcontractors for that list?---I believe there was one, NHR Group, which, which, which I put in. That was the only one.

Was that someone you knew of from before?---Yes.

30

Do you know whether they ultimately provided - - -?---They provided a quote but it was a non-compliant tender. I don't think they would have ever been able to deliver that job if they don't - - -

40

THE COMMISSIONER: Sorry, who was this?---NHR I think was the name of the company. I don't think they would have been able to. They don't have the skills. I just, mostly just wanted to see how they were in terms of a competitive price, so we just get another price. But in my experience they, they wouldn't have been able to deliver those works or had the capability to. Just mostly see where we stand with everyone else.

MS DAVIDSON: All right. So Mr Abdi suggested to you that you add three names to the building package. What did you do at that point?---I added the names and I, I believe I sent them over through to the Tender Team on an email just to also go out to tender for them.

Do you recall how you made - well, sorry, how you received details in relation to those companies from Mr Abdi?---I believe, I can't recall specifically but I believe Nima either wrote them on a piece of paper for me or sent them via message. It was one of those, yeah.

10

Would that have been a WhatsApp message?---I don't recall. It could have been a text message at the time 'cause it was during the early days so I think Nima - yeah, I, I don't recall, sorry.

Right. When you say it was during the early days, do you mean the early days of your contact with Mr Abdi?---Yes.

Right. And you - well, did you consult, when Mr Abdi made that request of you, did you consult with anybody at Downer in relation to adding those three or did you simply send off the email?---I just add them. I didn't, I didn't think there was anything wrong with, like, Nima providing those names. At that stage I just thought he was trying to help the project and just
- - -

20

Sure. Did he say anything about RJS at the time?---He said that they worked on Central Station for Downer before, and that they're a good builder. So that's what he said.

Right. Do you recall him saying anything about SDL or Constructicon to you?---No, no, no.

30

Could we have volume 1.4, page 303, brought up on the screen. This is an email from you to Mr Harman at Downer, copying Mr Watters, on 4 June 2019. What was Mr Harman's role?---I believe he was the, he was in a commercial role at the time so could have been contracts administrator or contracts manager.

So part of the Procurement Team?---Yes.

Right. And here you've indicated RJS, SDL and Constructicon that we've been talking about, as well as NHR Group. Why did you suggest NHR

40

Group if you thought they were never going to have the skills to work?
---They wanted to get into additional work and I thought if they could price it, at least they'd get some experience in how to price for jobs.

When you say they wanted to get into additional work, how did you know that?---Oh, they spoke to me.

Right. And had you worked with them before on a previous job?---No, never. Never, never.

10

So they cold-called you, did they?---No, no. I know NHR. The owner of that is a, is a, was a friend of mine.

I see.---Yeah, yeah, so he, he just, through conversation, said, he's like, "What are you working on?" I say, "I'm doing this." He's like, "Can I" - I think he suggested if he could tender and I said, "You can." I don't think, I don't think, I think I told him I don't think he has, like, the capability to do the job and I said, "If, if you want to give it a go, yes, you can."

20

Right. Did you consider at that point whether putting your friend's company forward as one of the tenderers on a project that you were involved in managing was a conflict of interest?---They didn't win the job. I didn't think they would have. If they did, then I, I think that situation would have arisen. But I don't think they had the capability. I honestly don't think they, they could have even delivered that. They were, they were a much smaller builder. I think they do like bathroom fit-outs and all that. Again, building package was something that, something of that scope I didn't work on before too much as well, so I didn't have a whole lot of idea, so I just said, "Look, you can if you can do the," because I saw toilets and
30 bathrooms in the design and thought, okay, maybe they can do that. Maybe they can give a good read, but yes, that was the - - -

Did you think that they could put forward a genuine tender package? Did you - - -?---I, I didn't, I, I didn't, I didn't know what they could have put through. Like, I didn't have the experience with that tender or anything. Just, I just said, you know, "Can they do it?"

Are you familiar with the idea of dummy bidding?---No, I don't think so.

40

That is putting forward people as part of a tender who are never going to be able to be successful.---Okay.

Did you regard putting NHR forward as an instance of - - -?---No. No.

- - - them providing a dummy bid, just another name to throw in the mix?
---No. No. No.

What about CNH Group. Is that the company that I think you said Vlad had suggested?---I, I think so, yes.

10 Right. What did you know about them?---Not much, just that he provided the name and he said, "Add them to the list."

Right. Did you have dealings with them or conversations with them about being added to this list?---No. No. That was just provided, I think Vlad or, Vlad sent me an email saying, "Can you add this to the list."

And - - -?---It might have been suggested by the, by the supervisor Tony Schasser, but, yeah, that's all I recall with - - -

20 And once they were added did you have conversations with anybody from CNH Group?---I don't believe so. It's mostly if anybody had questions.

Yeah.---And they, they had questions regarding the tender or regarding any, any doubts in the drawings, then I would clarify them.

All right, but you don't recall that happening in relation to CNH Group?
---Not, not particularly. Not specifically.

30 Right. Were you aware then that an invitation to tender was issued to these companies?---It was through TeamBinder so I don't know if I got that notification.

Right.---So - - -

But you expected that that was what would occur.---Yes.

40 That is, Mr Harman wasn't going to independently change the companies that were approached, was he?---I, I wouldn't know. I just sent him the email and I cc'd Kevin Watters and the rest was, was I guess with them at that stage.

Okay. What did you understand to be the next stage in the procurement process?---Normally if the, if the subcontractors had any questions they would, they would ask those questions either to me or Scott or Kevin or whoever was included as a contact. They would get those questions clarified and then they would send their price through. So that would be the general process.

Yeah.---Yeah.

10 And once the prices came through, did you play a role in relation to recommending subcontractors to be selected on the project?---No. Kevin Watters called me during the final selection. He wanted to know about RJS. I never worked them before. I believe Tony Schasser, the supervisor, did, so I told him to call Tony Schasser and I believe Kevin had that conversation with him.

All right. So were you aware that there was consideration going on within Downer in June as to, that is, after the prices were received in relation to who should do the building package?---I believe that was with the project
20 manager. I wasn't contacted or, or given much regarding that.

All right. Could we have volume 1.4, page 346 brought up on the screen. So this is an email from Mr Watters to Mr Harman and Mr Patel - - -?
---Yeah.

- - - but you're copied on it on 25 June.---Yeah.

And it's replying to something from Mr Harman indicating RJS are the best for costs and there's some budgeting sheet seemingly being referred to
30 there. The preference, Mr Watters' preference at that stage was RJS. They'd already visited site twice for walk-throughs, you'll see it says there, and "have done some works for Downer on NIF previously and their price is most competitive." Were you involved in those site walks with RJS?---I believe I was involved in one site walk. The second one, I don't recall the second one happening, yeah.

Who attended the first one on behalf of RJS?---Tony Nguyen.

Right.---Tony.

40 Was Nima there?---Nima was there as well, yes.

Do you recall having conversations with Tony or Nima about - - -?---It was, it was, that site walk was quite professional. I mean, Tony had questions and he wanted to know, and Nima just accompanied so there wasn't any, anything beyond that at that stage.

Did you know whether it was unusual for a client representative to be present at a site walk-through?---Nima, I think, I don't believe it was just for RJS, but Nima used to kind of just come through, with, like walk-throughs, with, with everyone else, as well. I don't know if it was, because again it was my first interaction with, like, Transport for NSW as a client, I didn't know what to expect. So, you know, if the client wanted to come, I didn't, he, he came, like, I, I didn't know we had to say no or do anything so - - -

You later worked on Banksia for Transport for NSW?---Yes, I did.

Was there a different client representative on Banksia?---Yes, there was.

And did that person behave differently?---Yes, he did. Yeah.

And would he attend for things like site walk-throughs with potential tenderers?---I, I don't recall but I, I think maybe he, he might have attended one if he was onsite, but I don't think he, he went out of his way, I think, to try and attend. I think even on that day, Nima was just onsite, as well, and Tony came through and he attended. I don't think there's any, like, particular reason or anything behind that - - -

Did you observe anything about the interaction between Nima and Tony on that site walk?---Not on that particular day. It was just quite casual. I, I, I didn't have any indication, just, that suggested that they might have known each other or anything at that stage, on that level.

So this email was copied to you. Do you recall this being around the time that Mr Watters called you about RJS or was it later on?---I think it, it, I don't recall. It might have been around or later on? I actually don't recall when he called in, in relation to the, the period of this email.

Could we have volume 1.4, page 358, brought up on the screen? Mr Watters sends this email to you, amongst a large number of other people. ---Yeah.

This is 27 June.---Yeah.

So a couple of days later. “We’ve with them, given them the go-ahead,” et cetera, and “asked to get Tony and his guys to site, starting 4 July”. Do you recall receiving this email?---I was CC-ed in on it, so I, I can, I can say I received it, yes.

10 All right. But you don’t recall whether that was the point at which you’d been contacted by Mr Watters in relation to RJS?---No. It, it was definitely after the submission of the tenders, if that would assist? I just don’t recall when particularly he called me on, in relation to that period.

20 Sure. During the period after the submission of the tenders, that is this late June period, do you recall whether Mr Abdi was continuing to contact you about the tender?---Yes. He, he did ask questions. He wanted to, he wanted an update. I said, “I don’t know” at, at, at that stage and, ‘cause I think when he first called me, I, I didn’t have an idea. I, I told him, I believe I told him, “It’s with Kevin Watters and, and Downer” and, you know, that’s what I told him, yeah, like, like, I didn’t have any information at that stage, ‘cause it was with management.

Right. Did you understand him to have a particular interest in one contractor - - -?---I felt like - - -

- - - or one tenderer succeeding over another?---I felt like he did, based off just the way he used to talk about RJS and other contractors - - -

30 What sort of things did he say?---He said that they were at Central and that they’re a good contractor and that we should use them, so that’s kind of the general gist of what he was saying when he was coming onsite. And even when Vlad was there, I believe he, he even, he was telling that to Vlad directly, as well. I just didn’t think much of it, just, like, he was just, you know, he was just saying it, ‘cause I had no context at that stage to think otherwise.

Did he also say things about SDL or Constructicon?---Not, nothing that I can recall.

40 So to the extent he suggested all three of them, did you understand him to be suggesting that there was any relationship between the three of them?---I, I, I did have it at the back of my mind, that, that there may be, but I, I don’t

think I had, I don't think I had the guts at that stage to question him about it, like, as in, like, Nima was, like, was quite senior, like, from my end, it's quite overbearing. And I was new to the company, so I didn't know what to do with the client. And, generally, in Downer, we were just told to, like, appease the client, you know, kind of give them what they want and not try to, like, you know, push them out of the way. So that was the general kind of consensus we were getting, I was, we were getting onsite from senior management.

10 Where you say you were told to appease the client, do you remember who told you that?---I believe it came, might have come from, it did come from one of the project managers or senior staff. It could have been Andrew Bedwani or Vlad or someone. I remember them saying like, with the client they said "appease, appease, appease" three times that way specifically. So, you know, if the client comes you need to appease, appease, appease. So it could have been in a meeting but that did come from senior management that way.

20 Do you remember when in your time at Downer you were told that "appease, appease, appease"?---I think it was during the early stages as well of the project, and then as the project continued it was kind of reiterated, you know, if they, if a client, just appease the client.

Right.---Yeah.

30 And you said you did have in the back of your mind there might have been a relationship between the three companies that Mr Abdi suggested you include. What put that in the back of your mind?---I think the fact that, like, he suggested three companies when he spoke instead of when he spoke about one. So he spoke about RJS but then he suggested three companies and then, and then, yeah, I, I do remember him, him also casually saying at some stage before, he was like, "If RJS, like, wins I might get you to, like, look after, like, and assist with some of their work." I didn't think much of it, I just thought he just wanted me to, like, do my job as a project engineer and do that.

This was before they were successful?---Yes, yes. So I didn't have anything particular to say that, you know, but he had that. But the fact that he gave me three, yeah, did - - -

40

Had you had any contact with anybody from SDL or Constructicon in the process of preparing, that is them preparing bids?---No. No.

Did that raise any suspicions on your part that they hadn't made any contact with you?---I assume that they probably did not have any questions at that time and maybe they were comfortable with the tender.

Right. Was it unusual for a tenderer to have no questions?---No, I don't think Indigeco he had any questions as well.

10

I'm sorry, you don't think - - -?---I don't, Indigeco never had any questions as well. And - - -

Right. Indigeco wasn't on your list.---No, it wasn't, but - and CNH never contacted me either so I, so there were a fair few companies that didn't.

All right. Was Indigeco added later?---It was.

20 All right. And do you know whose suggestion that was?---From my understanding I think it might have been Kevin Watters.

Right.---Yes.

Right. I'm sorry, so you said it wasn't unusual in relation to them, if they didn't have questions, not getting in contact with you?---It was a building package. I didn't have experience. I didn't know what, what to expect. So again, if they called me and had questions, I answered them. If they, if they didn't, then - - -

30 All right. It seems that there was a formal subcontractor recommendation process that went on. This email you see is at the end of June. A formal subcontractor recommendation process took place later. Do you recall that occurring?---I believe that happened after Kevin Watters called me about that question about RJS that you had earlier.

Right.---But that, that happened in the North Sydney office.

All right.---Yeah.

If we scroll to the following page. So this is a Kingswood building works recommendation document that's being prepared, not copied to you but sent to Mr Stanculescu in September.---Mmm.

And Mr Harman asks Vlad could he have a look at it and "let me know whether you're happy and then I will forward to Amit for sign-off". That's page 359. Could we go to page 360. So this relates to the selection of RJS for the building package. Are you able to explain why this was only taking place in September?---I, I have no idea why. Yeah, this, this, I think that, I
10 I don't even think I've seen that document before. I think that's above my, my board, like my level.

All right. It does contain space for the project engineer potentially to be involved in supporting the proposal, not signing off on it.---Yep.

Were you involved as project engineer on other subcontractor recommendation documents like this? This is a standard Downer template by the looks of things.---No, I believe the first time I might have ever seen that was towards the end of the year for the landscaping, but - - -
20

Right.--- - - - I don't recall particularly even signing the landscaping one. But that was the only time I do actually recall that because why I recall that was because it says project engineer up to 10,000 and for me that kind of stood out because I had no idea what, what authority or thing I had, and the first time I saw that then I'm like, "Oh." So now I understand that is - - -

You didn't know what your financial delegation was?---No, I actually didn't know until then. So - - -

30 Right.---That's why I particularly remember that period because it was, I'm like, oh, you know, I, this is what it is for me. Like, that was, that's my level of financial delegation.

I see.---Yeah.

But you hadn't been told that during your - - -?---No, never.

- - - initial induction process?---No.

40 Or subsequently by Mr Stanculescu?---No.

Were you aware that RJS had been working on the site prior to September 2019?---Yes. I believe they started around mid to late July.

Right. Which is consistent with the email that we previously - - -?---Yes.

- - - looked at in terms of - - -?---Yes.

- - - the go ahead having been given?---I was told to, I was told that they could start onsite by, by Kevin Watters and senior management and to just
10 begin works with them at that stage.

THE COMMISSIONER: To what, sorry?---I was told that they could start onsite, like works after, in July so, and that they could start works onsite, you know, so my understanding was that the contract would have been signed by then.

MS DAVIDSON: You said that you had conversations with Mr Abdi where he was effectively advocating RJS and he said something to you about if they succeed might get you to assist. After they were given the go ahead,
20 that is in July, did Mr Abdi have further conversations with you in relation to RJS?---Yes.

What was the nature of those?---He wanted me to assist them with the works onsite and then more or less like report to him and, and, and help them like deliver the project as well and - - -

Right. Did you think that was unusual?---A little at that stage but I think, I think at that stage, I'm not too sure but I think my understanding was maybe Nima didn't think that RJS could manage and deliver that by themselves
30 without assistance of like an engineer onsite or something.

Right.---So he did, yes, he did have that conversation with me.

Do you recall when that conversation was?---Probably like late June, early July. After they, after they won I believe like - - -

Right. After they won.---Yeah, or he got - - -

Did he come to you onsite and ask you to assist?---I believe so, yes.
40

And how did you react?---I said at that stage look, like any other contractor, right, I'm happy to help but I think as the conversation progressed and I think, I think essentially what happened was after I came back from, from leave Nima saw my difficulties in, in, with Vlad like, you know, just our interaction and all that and, and I, I did raise, like just in the course, you know, he would ask me questions like, you know, is everything okay and I raised some of the issues I had just so I could have someone to listen to. It was a difficult time for me at that stage because my grandma passed away when I was overseas as well and, and coming back and, and kind of going through what I was dealing with later was, was quite difficult. So, so then, 10 yeah, so I think my understanding was maybe he, he saw that as, as a, as a vulnerability in me or something and, and he approached me. But, yeah, as the conversation went through he started speaking in terms of monetary terms, that he wanted to I think, he said, he said that he wanted to give me like part of the profits or something if it, if they, if it came through.

All right. This is, part of the profits if it came through, was that a conversation you had before - - -?---Like part of the profits meaning like, you know, if I, if I assisted them and all that onsite that he would share - I 20 believe this was after the tender that he, that he mentioned that specifically.

So this is still the same conversation, is it, after they'd been successful?
---Yes, ma'am.

Right. And was it something that took place on the site? Do you remember where this conversation was?---Yes. I believe it might have been just in, in, maybe in the office or one of the demountables when no one was there.

Right.---While I was just working by myself I think he came in and had that 30 conversation. But it was onsite I believe, yeah.

So you said it progressed to monetary terms.---Yeah.

What did he say about monetary terms?---He said that, he said that he would give me a share of the profits if, if I assisted them onsite and, and helped them and reported to Nima and kind of helped them deliver like their scope of works for the building onsite as well.

Right.---So - - -
40

What did you, did he say anything to you about his role in the company, that he was in a position to offer you a share of the profits?---He didn't say particularly. I believe it was closer to September, ma'am, that he said that he was a silent partner specifically. I don't recall him saying anything on July but by, by that conversation I had an understanding that he had an involvement in the company. I just didn't know what particular involvement that was.

10 Because he couldn't have been offering you a share of the profits unless he had some role in the company presumably.---Yes, that's correct.

So how did you react to that proposal?---Initially I was, I was, I was quite, I was quiet but I think he, I think he, he pursued that more than once with me and then I think he said that look, Vlad's not going to look after you, no one's going to look after you on this job, you know. I'll look - - -

All right. So let's just step through it. So there was the first conversation that was sometime in late June or early July after - - -?---Yeah,.

20 - - - they'd been given the go ahead.---Yep.

And this was you think in a demountable when nobody else was there. ---Yes.

And that was the first time that he mentioned a share of the profits.---Yes.

Do you recall - - -?---That, that's the first time I recall that he mentioned that.

30 Do you recall him mentioning any figure in terms of the share of the profits?---I don't think he mentioned a figure but I believe that at some stage whether it was, it could have been in July or, or later that he, that he said that I will get about a third, but I don't, I don't remember when he particularly said that.

All right. So he offered you a third of the profits.---Yes. Well, he, I - - -

At some stage.---Yeah, according to his word, yeah.

40 And you said in the first conversation you were quiet. Did you react at all to that proposition that was being put to you?---It was the first time someone

like approached me that way, especially coming from a client. I didn't, kind of did not know what to expect.

THE COMMISSIONER: Mr Abdi wasn't a person you knew particularly well at this point, was he?---No, I did not, Commissioner.

10 So how did the conversation start up?---He used to, he used to speak to me about my problems, like, with Vlad and all that, and I think that he got comfortable with me and then slowly just started pushing like, like his agenda that he wanted me to assist with, with thing, so it was bit by bit. He didn't do it in one go. Like, he didn't sit me down and say, "This is the go." So over, over that period, like, we just slowly started building on that.

MS DAVIDSON: So I think you said you'd started to talk to him about your problems with Vlad after you came back from leave.---Yeah.

That was in April, I think you said.---Yes.

20 Right. So this is a conversation that took place by I think you said late June or early July. In that intervening period between April and June or July, how frequently would you say you were talking to Mr Abdi about your difficulties with Vlad?---Not, at that stage not very often. It was only after I think probably post-July that I was speaking to him more on the phone. During that period just mostly when he was on site or, or when he came out.

30 Right.---And I had the opportunity, and, you know, he used to ask how's things going and, you know, I used to speak to him about my issued I had with Vlad or, you know, just some guidance on what I should do like in situations like that.

Right. Did he offer to do anything in relation to the difficulties you were having with Vlad?---He used to listen. I believe maybe between, between April to, to June, I applied for a job elsewhere because I was trying to leave Downer.

40 Right.---And he provided, and I asked him if I could use him as a reference and he said that he would give that. During the course while I was with Downer, I was applying for jobs elsewhere as well. However, I believe either because of my lack of real experience or the time that I was only in Downer for a short while, unfortunately I wasn't very successful in trying to

move out, again, partly because of my issues with Vlad that were affecting me mentally, so I was trying to leave.

Did he suggest that you raise your issues with Vlad with anybody else at Downer?---I, I said I raised them with Kevin Watters at that time, sorry, Kevin Brady in April.

10 Yep. Yep.---But I didn't get much of a reaction. So I believe I told Nima that, that I raised that, but I didn't get a reaction and, you know, I don't remember what he said with - - -

So the conversation, coming back to the conversation you said you had in late June or early July, I think you said you were relatively silent. It was the first time somebody had approached you like. Were you shocked?---Yeah. I don't know what I felt at that time, but - - -

20 Pretty memorable conversation presumably.---Yeah. Yeah. No. No, it was. I just, I just, like, because I was silent I, I, it was the first time someone approached me so I didn't know what to like expect, like, but then, yeah, as, like I said, as it progressed, like, he pushed that on me more than once and eventually I think either because, I think because Vlad was, was not treating me well and Nima kind of came out and he's like, "Look, I'll look after you," like, "I'll kind of protect you in Downer and at Transport and all that," because there was a sense of paranoia that was, that was being created. You know, colleagues used to tell me so and so "spoke bad about you in the office", but, you know, so and so said this, so and so said that, they were just, it was just feeding into that narrative.

30 Right. Well, that's just stick with the first conversation. We'll try to step it out.---Yeah.

After he'd made you that offer in relation to a third of the profits and you didn't say much, did you think about what course of action you should take?---I didn't know what to take at that time. I think probably 'cause of my frustration with Vlad I thought that Nima would probably be like a helpline.

40 Right. So were you at that stage positively disposed towards saying yes to Nima?---Yes, ma'am. I was.

Okay. Did you consider going to anyone else in your company about what had happened?---I, I thought about it but I think because of the, my previous interactions and that nothing happened, I didn't think I could achieve anything within Downer.

And when you say your previous interactions, that was your telephone call with Kevin Brady.---With Kevin Brady.

10 Right. You'd been told at this point, though, that Vlad was going to be moved on. That's what Vlad had said. Had Vlad come back from leave by this point?---Yes.

Right. So was it that that - - -?---Oh, I don't know if Vlad came back from leave. I believe Kevin Watters might have, might have been on the - I, I don't recall. It was around that period.

'Cause these recommendations in relation to the contractors, these emails were being sent by Kevin Watters - - -?---Yes, yes.

20 - - - at the time, which would suggest he was still - - -?---Yes, yes.

- - - taking responsibility as project manager, is that right?---Yes.

So if it was during the time that Kevin Watters was acting as project manager, you didn't know one way or the other whether Vlad was going to come back, did you?---No, not at that time. No, not at that time.

30 Okay. So - - -?---But, but I think speaking to Kevin Watters as well, I think there was, I think he suggested that, that he would be going back to North Sydney as well after, towards the end of that period, because they wanted to know if, if we would still stay on. But, so, you know, I was still, I was still thinking at the back of my mind that, you know, Vlad may still come back but I didn't have any actual confirmation.

But you didn't know one way or the other?---No, ma'am.

40 And yet nevertheless you were thinking positively about Nima?---Yes, ma'am, I was. He, he, he, he listened to me and for, for, in a metaphorical sense he was a shoulder to cry on, so, because of some of the difficulties I was going through with Vlad. And it was a new project for me, it was a rail project, so I didn't know, so Nima helped out. He said, you know, "This is

what you need to do on a rail project.” Even when Kevin Watters was there, because he was between two stations he wasn’t onsite all the time, so if I had any questions like in terms of rail or procedure or what I should do, so Nima was quite helpful that way, you know, in terms of, you know, what I should do. He was like, he was a guide, because it was my first rail project so it’s a lot of new - - -

10 You say Nima was the person who you were working most closely with in terms of providing you with guidance about the project at this time, that is late June, early July?---Yeah, yes. He was, he was onsite. So when he was onsite, yeah, he was. Because Kevin Watters wasn’t onsite all the time and Vlad wasn’t there. So, because Nima was the only one who had rail experience and Transport, so if there was any issues or procedures, like if you had to raise a level 5 or 0268, which is working near live electrical equipment, which is about an eight-week application, so things like that Nima, Nima assisted me with because I didn’t know the procedure, so that was my first time.

20 Right. So he approached you again, you said. Do you remember when that next conversation took place?---It could have been maybe a few days after that.

Right.---Yeah.

Was it a telephone call or a face-to-face conversation?---I think he called me once on the phone as well in between and then after as well.

30 All right. So he called you and what did he say on the phone call?---He, I think the conversation that I had was he, was when I found out that RJS had run and he called me and he asked what happened and I told him, and he, he was quite happy about that. And that’s when he again mentioned, “I might get you to look, get you to look after them onsite.” And then after that he came back and, and then he suggested that the, the money thing.

Yep. And you didn’t - I think your evidence was you didn’t, in that first conversation about the money thing, say yes to receiving a third of the profits?---No, no, no.

40 Okay.---It was after later on, like, I was thinking about it and then Nima kind of, he came in as like this - I don’t know, he came in as like this father protective figure. He’s like, “I’ll look after you, you know, if you help me

out. You know, people in Downer will talk bad about you, you know.”
And he was - - -

Sorry, he said people will talk badly about you in Downer?---Yeah, he, he was saying that, right, because Nima goes, is in the Transport office.

Yep.---And, you know, when people used to talk bad or when Vlad used to complain to people in the office and Nima heard about it, he used to tell me, “Vlad said this about you, Vlad said that about you.” And he just kind of
10 created a sense of like fear and paranoia in me that, that - - -

Vlad did or Nima did?---Nima used to tell me that Vlad, you know, that he overheard Vlad say this or that, you know, he, he heard this about me from so-and-so.

All right. So at the same time as he was being your support person, he was also making you feel scared and paranoid, is that right?---Well, well, by, by telling me this, right? So by being my support person he’s like, oh, like, he’s like, you know, “Vlad was saying this about you, you know, that you’re
20 a bad engineer onsite,” you know, and stuff like that. So it was kind of, kind of telling me information that I didn’t know that other people were talking about me.

THE COMMISSIONER: Did you believe that information was accurate?
---I didn’t have any reason not to at that stage.

MS DAVIDSON: So was it in that second conversation - that is about the monetary offer - that he said people within Downer will say bad things about you?---He was saying that people were talking about me like in that
30 sense. But the particulars I don’t know.

Did he offer to do something in response to that?---Well, he, I think what he said is that he was going to try and, like, like, you know, if people spoke bad about me or something, you know, he was going to try and defend me and do stuff like that.

And did he bring up the monetary offer again in that conversation?---Yes. Yes.

40 And do you remember what he said?---I believe that that’s what he said, like, you know, the, the (not transcribable) of the profit thing and - - -

Did he give you any idea about what he expected the profit to be?---No, not at that stage. I, I, I'm not too sure if, if he knew exactly at that stage, either, or whether he, he, he withheld that information, but he didn't, he didn't say.

Okay. So in this second conversation, how did you respond?---I think I, I think I agreed and I said, fine, I'll, I'll, I'll, I'll help him.

10 Okay. You think it was the second conversation?---Yeah. It was between that, but I don't know if it was the second or third but I did have that conversation and, and what I said, yes, I did agree.

So you agreed to accept a third of the profits - - -?---Yeah.

- - - and that you'd help onsite?---Yes.

20 And what did you understand, did he explain to you what he meant at that point, by helping them onsite?---He, he, he said that, he said that he didn't think that, from my understanding was that, was that he didn't think that Monty and RJS, in terms of the building package, he wasn't confident that they could deliver that scope of works by themselves and that they - - -

Did you understand Monty to be working for RJS by this point?---Yes. Yes. Because I believe after they won, I think he might have come out onsite maybe once and just kind of scoped the site, so, yeah.

30 So Nima said to you something along the lines of they can't do this on their own. Is that - - -?---Yeah. He, the way he was talking was that, I don't, I believe he, he, he wasn't confident that they could just deliver it on their own, that he, that he wanted my assistance onsite to help them deliver that. To help them deliver the scope of works, he wanted me to report to him, you know, if there was issues onsite.

And did you ask him any questions about how that would work, given that you were working for Downer at the time?---No, I didn't. I, I, I don't recall, ma'am, like, like, I don't recall.

40 Do you recall thinking about - - -?---I, no, wait. I, I, I do believe I asked him is it okay, like, you know, for me to do that, and then Nima said, yeah, there's, there's nothing wrong, you'll be helping me and, you know, you'll be getting that. So I, I believe more than one occasion, I did raise my

doubts with him and Nima talked me out of it. And he said, "It will be fine," and I took that as a, as a form of reassurance from him.

Right. When you say "more than one occasion" is that in these initial conversations or further down the track?---Once was initial and, and once was further down the track.

10 Right. And he said, "It'll be fine." Do you recall thinking anything along the lines of, well, I'm a Downer employee, how am I going to report to somebody at Transport about how the subcontractor's doing?---I didn't. The reason, again, Nima said, yeah, they'll be fine, don't worry about it, like, you know, you can, you know, you can, you can do this, right? He said it wouldn't be an issue.

20 Okay. Did you think in your own mind, at this initial stage, about how you'd manage both sets of responsibilities?---I, I thought, like, I, I, I would be able to onsite because I'm, I'm onsite, as well, and it, and, you know, and it's, and coordinating with other subcontractors, that I could just do that as part of my job while I'm onsite.

All right. 'Cause you were already, I think you'd indicated, were having a pretty difficult time on the site. Is that right?---I was. I was.

So wasn't adding extra responsibilities to help a subcontractor just going to add to your level of stress and worry?---It was, but I think, during that period, I think it was a coping mechanism, where I, I just threw myself into work, just to not think about anything else and - - -

30 Work was a coping mechanism?---Like, I, I, I, I did struggle but, like, I, in, in the back of my head, like, I, I wanted to deliver the project, I still wanted to do that, and I wanted to deliver it well. So I just put my, put my mind and efforts into the project, like, I just tried to focus on the project and, and the delivery of that, as much as I can.

Right. Did it occur to you at the time that somebody from Transport coming to you and offering you a third of the profits from a subcontractor on a Downer project was something that was grossly improper?---I, I did question Nima about it. Again, he said it was okay. But because - - -

40 Well, Nima said it was okay.---Yeah.

That's not very surprising, is it - - -?---Yeah.

- - - given he was the one making the offer?---Yes, ma'am.

Did you think in your own mind how is it that somebody from Transport, firstly, is themselves getting profit from this project?---Yes, ma'am, I did.

You did?---Yes. I, I, I felt, I did feel conflicted about it during, even helping Nima during that period - - -

10

Well, I'm just talking at the moment about - - -?---Sorry.

- - - the time that you agreed to it - - -?---Yeah.

- - - which seems like it was pretty soon - - -?---I - - -

- - - after the idea was initially put to you, it didn't take you very long to accept. Is that right?---No, I don't believe it did, ma'am.

20

Right. So did you think in that period at all about this is an extraordinary thing, somebody from Transport is getting profit out of this project?---I didn't know the extent of profit Nima was, was getting at that stage or, or what his exact thing was. I, I, I kind of just went with the flow. Nima seemed like someone, you know, who I could talk to and, you know, like, who, who would listen to me and I, I felt that, you know, if I help him, you know, he'll, he'll, he'll, he'll help me onsite, like, he'll look after me and, you know, I, I won't lose my job at that stage.

30

All right. Did you think you were about to lose your job?---Yes, because there was a period where Vlad and Kynan were onsite and then colleagues used to tell me rumours that Vlad might remove you from your job and someone from North Sydney - - -

Who was Kynan?---Kynan was another engineer that Vlad brought on even after I was on the job after I came back from leave.

Okay. So this was further down the track again.---No, no, this was before Vlad went on leave.

40

Sorry, before Vlad went on leave Kynan - - -?---Yeah, after, after I came back in April.

After you came back from leave.---Kynan and Vlad I think were, were also friends.

What was Kynan's name?---Kynan Stahl.

All right. Are you able to spell that?---S-t-a-h-l.

Okay.---S-t-a-h-l.

10

Right.---So, yeah, so they, when Kynan was there it was, it was a bit difficult because they used to, they used to make jokes in front of me.

THE COMMISSIONER: Sorry, say that again.---Huh?

The title?---Kynan.

The timing was difficult?---It was after I came back from leave, Commissioner.

20

MS DAVIDSON: But before you had these conversations with Mr Abdi, is that right?---Yes. So they used to like say things like why do, you know, why do all engines smell and why don't you smell, things like that. So it wasn't a, it wasn't a good period for me during that time just working under both of them.

THE COMMISSIONER: So how was this going to work in practice as far as you were aware?---Sorry, Commissioner?

30 How was this going to work in practice? How were you going to - - -?
---What was, Commissioner?

I mean you were responsible to Downer.---Yes.

40 You're an employee of Downer but you're going to be effectively supervising work that was being done by subcontractors and reporting to someone else.---Yes, Commissioner. Well, I was, I was still onsite for both segments of work and it was reporting to Nima through RJS was just going to be another part of my, of my job as in, you know, this is the progress, this is what they've done today or they have an issue here. And then Nima was

essentially during that period RJS for me so if I had an issue or, you know, with RJS onsite.

But in your mind how would it work if you had an issue with RJS and their performance?---I would raise it with Nima and then he would try to address it from his end.

And what, you'd keep it from Downer, you wouldn't mention anything to Downer? Is that - - -?---No. I would just tell them I, I spoke to RJS and
10 RJS was Nima.

And you thought that was an appropriate discharge of your responsibilities in circumstances where you were getting money also, or promise of money from RJS?---Yes, Commissioner.

MS DAVIDSON: You said Nima was RJS to you. Were there instances in which there were problems that ordinarily you would have raised with someone within Downer but instead you only went to Nima to try to have them resolved internally within RJS?---As in specific, like RJS specific
20 problems?

Yes.---It depends on the problems. If they were safety issues or something they would get raised both ways. If they were problems with the productivity or, you know, the crew, suppose we had to get another crew in and they had to finish then I'd let Nima know look, you need, for example, you know, you need to finish by Thursday because we have a concrete pour scheduled there Friday so if there's any issues or delays, you know, I need to know so - - -

30 Right. So that is an instance of something that had you not had that relationship with Nima you would have gone to someone in Downer about presumably?---No. Then it would have just been whoever else would have been in RJS we're able to speak to them and say hey, look, this is the issue with your, you know, with your crew, right. Issues would generally get escalated if it was something bigger. You know, we found a service that's not meant to be there or there was a safety issue onsite, someone got injured. But if it's just day-to-day issues in terms of progress of works and productivity unless work stalled or there was a significant deficiency, you know, it would just get managed day to day.

40

All right. But would you agree you were giving assistance to RJS onsite that was above and beyond the assistance you were giving to any other subcontractor - - -?---Yes, ma'am.

- - - who was working on the site?---Yes, ma'am.

And that issues with other subcontractors that you might have raised with others on the site who are from Downer in order to have them dealt with in relation to RJS you instead raised with Nima - - -?---Yes.

10

- - - and tried to have him resolve them?---Yes, ma'am.

So there was an extent, was there, to which you were effectively acting in the interests of RJS rather than those of Downer?---Yes, ma'am.

So once this supervision of RJS on the site commenced did you continue to have conversations with Mr Abdi about deriving profits?---For the building works package, I believe that was it. It just getting that scope delivered.

Then as - - -

20

Did he make a payment to you?---Yes, ma'am, he did.

All right. When was that? When was the first time he made a payment to you?---I think it was sometime in July. It was 5,000 and there was a second payment, ma'am, of 28,000 in around September.

Yeah.---And then there was a third payment around I believe November of 5,000 again.

30 And how did he make those payments to you?---In cash, ma'am.

Right. And where were you when you received those payments?---They were done on site. There was, it was at Kingswood.

At Kingswood?---Yeah.

Do you remember where you were the first time he made a payment to you?---The first time I think it was in the demountable office for the 5,000.

40 Right.---The 28,000, I believe he handed it over to me in the car park in my car. Like, he sat in my car and then handed it.

Right.---Or outside of car park on the street but where the car was parked.

Yeah.---And then the third payment was again in the, in the demountable, ma'am.

THE COMMISSIONER: Sorry, where was it?---In the demountable. The, the site sheds. Like, the mobile site sheds.

10 MS DAVIDSON: Were you worried about being given large amounts of cash while you were on site, about somebody else discovering that you had \$5,000 sitting around?---No, I just put it in my car, ma'am. Just, I, I just left it in there.

Right.---But I did, I did, after I received the, the second payment as well, I did speak to Nima and I told him about taking it back, like, I asked Nima if he could take it back.

You asked him to take it back?---Yeah.

20

If he could take it back?---Yeah.

And what did he say about that?---He refused.

He refused to take it back.---He refused.

Right.---I asked him on more than one occasion, like, multiple occasions to take it back.

30 What was it that had caused you by them to ask him to take it back?---I think when I saw it I realised how big it was and I didn't feel like I wanted it.

What was it that you caused you to feel like you didn't want it at that stage?---I think 'cause looking at the amount of that and how much it is and, like, in person, realising what it was, I didn't feel like I wanted it.

Were you worried that it would be discovered?---I don't know if I was worried if it would be discovered.

40

Right.---Maybe. I don't think I was worried if it would be discovered. I just didn't know what to do with it, what to do with it at that stage.

You'd never received that amount of money in cash before.---No. No.

And the second payment I think you said was \$28,000. Is that correct?
---That was the 28,000, ma'am.

10 Right. And did you say that that was in September?---Around September, around that period.

Right. And so what did you say to Nima in trying to give it back?---I tried to give him an excuse. I told him I don't want it and he didn't accept it. Then I - - -

You say you tried to give him excuses. What kind of excuses did you give?---I told him, I told him, "The cash is fake. I don't want this. You're lying to me.

20 You said the cash is fake.---Yeah, I told him that.

Right.---Because I didn't want to, ma'am - - -

Did you think the cash was fake?---No. No. I just, 'cause I wanted him to take it back. I was trying to get, convince him to take it back.

Right.---But he refused at every instance.

30 Okay. Did he tell you, "No, it's real." What was his response to - - -?
---Yeah, that's what he said, "It's real." He's like, "I checked it myself." He's like, "It's real." He's like, "Don't bullshit to me." He was, he was speaking along those lines. And I said, "Can you take it back?" And he's like, "No, I can't take it back. It's yours."

Right. Did you explain to you that it was part of the profits, that is - - -?
---Yes.

- - - the one-third profit share that agreed to?---Yes. Yes, ma'am. Yes.

40 Did you come to understand that he was actually a partner in RJS?---That was around the time that he said that he was a silent partner.

Do you remember the context in which he said that?---I think I asked, I think I may asked him, I'm like, "What exactly, like, what are you doing with RJS, like, in the thing?" And then he said, "I'm, I'm like a silent partner."

Right. And you think that was about the time of the second payment. Is that right?---Yeah. Yeah.

10 Okay. And who did you understand to be the other recipient of the one-third, one-third, one-third?---I understand it will be Tony.

Right. So you tried to give it back to him on more than one occasion. You said you made excuses. Was there another excuse you made?---No, it was just that excuse. I told him I didn't want it and don't, like, I just told him I, like, "I don't want to," or, "The cash is fake." That's, those were the excuses I recall telling him, ma'am.

20 And did he say anything to you about your role in trying to, or in saying to you that he couldn't, he couldn't take it back from you?---Yeah, he, he refused to accept it back. Like, he just said, "I can't take it back. Like, I'm not going to take it back."

Okay. Did you think at that point that it would be appropriate to raise the matter with somebody else?---I didn't think, I don't know what I did. I don't recall what, what - - -

30 You didn't want it. You formed the view you didn't, you were - - -?
---Yeah, I didn't, but I didn't know. I didn't think I could, I could tell anyone.

Is that because you were worried about it? You said you weren't worried about being found out.---It's not the found out. I just, it was just the, a lot of cash for me. Like, I didn't know what to do with it.

Okay. Was it only that you didn't know what to do with it or were you - - -?
---I, I - - -

40 - - - did you actually have some realisation that this was wrong at that time?
---Yes, ma'am, I did.

Right.---I felt that to an extent. After I saw the cash I'm like should I really be taking this from Nima? And then I, I, I wanted to offer it back to Nima.

Okay. So is it correct to say that was the first time that you'd considered that it might be wrong to be receiving cash from Nima?---Yes.

10 Previously it hadn't occurred to you?---No. 'Cause I didn't, 'cause until I received that large amount, I didn't think much of it. Like, I didn't, I didn't even think Nima would actually follow through with his word (not transcribable)

But you'd had the \$5,000 back in July.---Yeah, yeah.

You didn't think there was anything wrong with that?---That was a small amount. I, I just, I didn't think, and Nima said he gave that money to him from his own, like, pocket or something.

20 He said that that money was from his own pocket?---Yeah, like, like, from money he had at home or, or money he had himself like - - -

Right.---Yeah.

Did he say anything to you about where the \$28,000 in cash had been sourced from?---He said he got it from an accountant or someone. I don't know, like, yeah, that's all I remember.

30 Okay. So after he said you couldn't give it back, what did you do with it? ---I tried to, I just, I just, I used about a third of that, like the overall cash I received, to pay off my debts, my credit card debts. I used a third for miscellaneous purposes, like just food, fuel, et cetera. And then I donated a third of it to charity, just in the course of when I was going out shopping and everything else.

So in the course of when you were going out shopping, what, you would - - -?---Like - - -

40 - - - put money in a tin or - - -?---No, like, like, for example, the farmers' bushfire relief, I donated to that. Like, you know, where they had those little boxes where people could donate cash and et cetera? So anywhere I could find a - - -

So when you were in a shop and you saw something?---Yeah, so anywhere I could, I did. I donated money, I bought about 250 kilos of rice and I donated it to, like, poor feeding during the COVID period as well, for people who couldn't, like, feed themselves.

Right. Did you think by spending it in that way that you would somehow feel less bad about it? Was that your thinking?---I wanted to still help people out. I think even if I, like, hypothetically won the lotto or anything, I would still donate to charity. I, I, I'm passionate about helping people and donating, regardless.

But you realised by this point it was money that you shouldn't have had?---I felt a bit that way, yes, ma'am.

Did you think about maybe not Vlad but going back to Kevin Brady or Kevin Watters or anyone else within Downer in relation to the fact that you'd received the \$28,000?---I did but I was scared that they may come after me or, or do something.

20 You thought about it?---Yes.

What do you remember thinking about?---If I should go ahead and tell them that I'd been working for RJS and, you know, that I received a payment from Nima.

Right.---I, I think at some stage, I, I don't recall but I might have had a conversation with Nima where he talked me out of going to anyone and telling them as well.

30 Do you actually remember that occurring or is that you speculating?---I, I can't definitively but I believe I had a conversation where I, where, where I told Nima if I should let someone know and then he talked me out of it.

It wasn't very surprising that he talked you out of it, was it?---Yeah. I think he said like, "Don't be stupid" or, you know, like, "You'd be an idiot to do something like that."

Right. So I think you said there was a third payment towards the end of the year.---Around November, ma'am.

40

All right. So despite the fact that you'd felt concerned about taking the \$28,000 in September, you took another \$5,000 in cash?---I did, ma'am.

Did you try to give that back?---Again, yeah, after I think in December I went back on, I, I went on a holiday for leave, and then after I came back I, I spoke to Nima again about giving whatever cash I had back, and again he refused.

10 Right. You said you'd gone on a holiday. Did you spend the \$5,000 on your holiday?---No, I did not, ma'am. I did not.

You spoke to him, you say, when you came back from the holiday?---Yes.

And what was the nature of that conversation?---Again I told him if he could take the cash back and he again refused.

20 Right. What was your role or - by this time in the building project, had variations been raised?---Yes. What, what time, ma'am? Like with regards to what month or what period, so I can give you a better answer.

Yeah, okay, so I'll put the question another way. What was your role in relation to variations on the Kingswood building project?---Yes, ma'am. In, in terms of RJS or just all subcontractors?

Well, in terms of your role, let's start with your role for Downer.---Yep.

30 What was your responsibility in relation to variations on the Kingswood building package?---If, if we identified a variation through, like, engineering terms, as in, you know, if there was missing information on the design or if there was additional scope that was meant to be given to the subcontractor, we would go to that particular subcontractor for pricing, for example, if it was concrete works, we'd go to the concrete subcontractor. If it was steel works, we'd go to the steel subcontractor and building, building subcontractor. So if there was additional scope or if there was additional works, I'd, I'd let Vlad know, look, we've identified additional scope or, you know, we have a, we have a gap in our scope, this hasn't been allocated to anyone, what should we do about it? And, then, you know, if Vlad said, you know, go to, go get pricing off the subcontractor, whoever that is, I would go get the pricing, I would then present it to Vlad and Vlad would
40 either approve, reject it or say, or instruct me otherwise.

Okay. And given that you were also, to use your words, working for RJS at this time, what were you doing for RJS in relation to variations?---If there were, if there was missing scope in the design or there were items in the design that weren't included, you know, in the, so items that had to be delivered that weren't in the drawings or if there was issues with the design drawings, they were incorrect, so I would, I would either if, if any of RJS's subcontractors would identify that, they would let me know onsite and then I would let Nima know, look, we, look, there's an issue with the scope or the variation here, can you let me know if this is part of your scope or what the issue is, then Nima would follow up I think with Tony or whoever, and then they would send a variation through. I would then present that variation to Vlad and let him know, look, this is the case, this is the missing scope, this is the variation and then Vlad would either approve it or put a hold on it or instruct me (not transcribable)

Okay. So did you regard your role, to the extent you were providing assistance or working for RJS in relation to variations, to be identifying additional variations or to include additional variations being identified that wouldn't otherwise have perhaps been accepted as variations?---I don't think it - sorry. I don't think it included identifying additional variations, more so as, it was additional scope that came through, so, you know, that they could deliver. So, for example, like, that nosings on the platform was additional scope that they could do. So I told them, look, we have this additional scope, they're the builder, so they're the, you know, the default contractor for this type of work, that they would do. Additional - - -

So that is you identified things that could have been done in relation to the project that weren't part of the original scope of works and suggested them to RJS. Is that right?---Sometimes Vlad suggested them, sometimes I suggested them, yeah. So it depended on who. So I believe for the nosing, Vlad said, go to RJS for a pricing. There were other times where I might have suggested them, as well. I don't particularly recall which ones are what, but - - -

Were you actively looking for those kinds of opportunities for RJS?---Not actively, no. It's as they came along, as we, as the work progressed.

If we could have volume 1.5, page 97 brought on the screen? If we could scroll down, this is the payment schedule number 10 in relation to the Kingswood building project. And you'll see down the bottom there, there's a list of agreed variations. Can you see that?---Yes.

And the list continues on the following page, if we could scroll there? The stair nosing that I think you referred to, is that variation 17, you see referred to there for \$33,000?---Yes.

And there's also a variation, you see on that same page, for fencing - - -?
---Yes.

- - - at \$81,000 and for re-sheeting WE19?---Yes, ma'am.

10

Are you able to explain what re-sheeting WE19 was?---Asphalt re-sheeting on the platform.

I'm sorry? Asphalt re-sheeting?---Asphalt, yeah. So - - -

So that was asphaltting, effective?---Yeah. So what happened was there was a section towards the end of the platform that was tiled, so as part of the design, that had to be removed and asphalted to a new grade, to make that area compliant.

20

Right. And the total of the variations on this project ultimately exceeded the subcontract sum, did it not?---Yes, ma'am.

And some of these, like the asphaltting, were reasonably significant - - -?
---Yes.

- - - amounts of variations? Did Mr Abdi ever ask you for budget documents in relation - that is Downer budget documents - in relation to variations?---Yes, ma'am, he did.

30

And what variations did that relate to?---So the asphalt, the fencing was one. Those are the two big ones. Some of the smaller ones I think, I think he did but a lot of the smaller ones were actual variations that came through from the project. So they weren't additional scope.

40

So when you say actual variations that came through from the project, are you differentiating that from fencing and stair nosing and asphaltting?---No, so they were variations as in variations to the original building scope and then additional scope of works, which is what the fencing was. So they're not part of the building package, they're just additional separate works that were awarded to them.

All right. And did you understand from the procurement process that was in place at Kingswood that these - the asphaltting, for example, and the stair nosing and the fencing - were projects that should have been, well, aspects of the work that should have gone out to tender?---Possibly, yes.

Right.---Yes.

And did they?---No.

10

They just went to RJS?---Yes.

Okay. Mr Abdi asked you for the budget, I think you said, for the asphaltting.---Yes.

And also for the fencing, is that right?---Yes, yes.

And did you provide those budget documents?---No, just the, the figure, the line item, not the document.

20

Right. But what did you understand to be his purpose in asking for the line item?---He wanted to tender and he wanted to come in under budget for that.

Okay. So you say he wanted to tender. I think you indicated there was no tender?---Not tender, no, he wanted to - sorry, if I can correct myself, he wanted to submit a price for the scope of works.

And where you say "he", you mean RJS?---RJS, yes.

30

Right. So did you understand that in giving him the figure that was so that RJS could come in within the budget?---Yes, as best within the budget as they can.

Right. And after you provided that budget document - well, sorry, withdraw that. After you provided those budget figures to him, did you understand that RJS did provide prices that were within those budget figures?---I believe so, ma'am, yes.

40

Right. Did you then play a role in approving or suggesting that Vlad approve the variations?---No, presented it to Vlad and I said this is the price

that they came back with, and then Vlad either chose to approve them or not.

Okay. In relation to the asphaltting or the fencing, was Mr Abdi pushing you to increase the scope of work to include those jobs?---With regards - the fencing was straightforward. With the asphalt, I think the scope was, was quite straightforward. I don't think there was additional scope.

10 Where you say you don't think there was additional scope, it wasn't originally within the building package, was it?---Oh, you mean, okay, yes, in terms of that, yes, yes, ma'am.

And so was Mr Abdi keen for that to be added?---Yes, awarded to, yes, RJS, yes, he was.

What do you recall him saying to you about that?---That he wanted the package and he wanted RJS to do it.

20 Okay. And was that because he understood it was a lucrative package? ---Possibly. I think so.

Do you recall how it was that you gave him the budget figures in relation to the variations?---It was either by phone call or message, ma'am.

All right.---Yeah.

30 Again, are you able to say what kind of message that was?---Possibly WhatsApp. I, I, I can't recall how, what I said. But, but it's either phone call or message. It was through the phone.

Was there - I think you'd indicated at the beginning that initially you communicated with Mr Abdi using text messages. Did that change at some stage?---No, not initially through, it was text message and phone call. It was that, either text message or phone call, that was always the case.

Okay. Did you have a Downer phone?---Yes, ma'am, I did.

40 Would he contact you using your Downer phone?---Sometimes Downer, sometimes personal, so either/or.

All right. And did you understand him to have a Transport phone?---I believe, yes, he did.

All right. And did you understand him to be - were you contacting him using that or was there some other phone he was using?---Sometimes I would call him using my, my Downer phone and he would still call me back on my personal phone. So it was, it was either/or, whatever he was available on. Sometimes he'd pick up one phone and not the other.

10 And did you understand him to be using more than one phone?---Yes, two phones.

Right. Was that a personal one and a Transport one?---I believe so.

Okay. And in your communications with him, were you trying to use one or the other?---In the initial stages it was more using the Downer phone and, and, but as, as, as the project progressed, it was, I was using my personal phone a bit more.

20 Right. And was there a reason for that?---No particular, I think it was just, it was just, I don't think there was any particular reason. It was just more convenient like, as in - - -

You were carrying both of them around all the time, weren't you?---Yeah, I was. If Nima called me on my Downer phone, we used to have conversation on the Downer. If he called me on the personal phone, we used to have, I didn't particularly differentiate between one or the other, but it was just the natural flow that as works progressed we, we spoke more on the personal phone.

30

Did you understand him to have any concern about speaking to you on your Downer phone?---Possibly, yes, ma'am, I think he might have, but, yeah, as things progressed we did contact each other more on the personal phone.

All right. If you contacted him using your Downer phone would he suggest or tend to call you back, swapping to your personal phone?---Yeah, so if I called him on the Downer phone he would, he would also call me back on my personal. Sometimes, sometimes he would lift up his Downer phone, sorry, his, his work. You know, if I call from the Downer phone, he would
40 lift up. He would answer the call, but when he didn't, he generally just used to call me back on my personal.

Okay. And did you understand that to be a pattern or a practice that he had if you called using the Downer phone, that he would call you back on your personal phone?---As, I believe so. I, I recognised that towards the end of the year where I started calling him on my Downer phone and he used to call me back on my personal.

Right. And what did you understand the reason for that to be?---I think he probably didn't want to speak on, on the Downer phone. He didn't want to talk to me on the Downer phone. He wanted to talk to me on the personal -
10 - -

Was that a concern that you shared at all?---I, I (not transcribable) it was a conversation on the phone. I wasn't particularly inclined one way or another. Like - - -

Right, but it was a conversation about you working for RJS a lot of the time, was it not?---Yeah. Yeah. Yeah.

Right. So it wasn't a conversation that your supervisors at Downer would have been expecting you to have on your Downer phone, presumably?---No, it's, it's not that. It's just that the Downer phone was a small Samsung phone so it used to run out of battery all the time. So it wasn't just, it wasn't just, like, Nima, sometimes if, if anyone on site wanted to call me and my phone died they used to call me on my personal phone as well as a backup.
20

Okay.---Yeah. It's not that, it's not that, like, there was an issue with the phone. It's just like a poor phone. It was a cheap Android phone so - - -

All right. So I think you said you presented the asphaltting and fencing variations to Vlad.---Yes, Ma'am. I did.
30

Did you in any way do what Nima was asking in relation to helping secure those packages or the, sorry, those variations for RJS?---No, Nima was aware that all I could do was just present it to Vlad. I mean, I couldn't push him beyond that because it was his prerogative to approve. I didn't have any authority to approve that and I, I also made that clear to Nima that, you know, that's the most I can do for him.

What did he say in response to that?---I think he used to say, "Oh, well, can you, can you speak to Vlad and, and push him for it."
40

Right.---There's only so much I can do. I can't like force Vlad. I can just say, "Hey, look. This is what happened," right? And, sorry, "This is the price they gave and that's the budget," and, you know, the rest is up to him. There's nothing more - - -

Did you try to push Vlad to the extent that you could?---No. No. I just told him, "Look, this is the price we went out for and this is what they came back with." I didn't, I didn't push him. I didn't force him. I didn't say,
10 "Vlad, we have to go with this," or, "We have to do this," kind of thing.

Right. Did you receive any pressure from Mr Abdi in relation to inflating the pricing of variations?---I didn't, I didn't price any of the variations or do any of that work.

Did you understand him to have inflated the price?---I, I believe he did, and I, I actually, I actually - - -

Okay. Can we have the list of variations back up, just that page that we
20 most recently had, which was volume 1.5, page 97. This is now 99. Do you recall in relation to any particular variations, understanding that the prices were inflated?---I think that the asphalt and the fencing were probably one of the bigger ones, and I actually spoke to Nima and I told him, I asked him if that, if that price is actually correct, and if I ever had any doubts Nima would say that's how much it's, it's costing him, I guess, and RJS, that is the actual price.

Right.---I think with the asphalt - - -

Did you continue to have doubts after he said that to you?---Yeah, I actually
30 pleaded with him to reduce the price as much as he can for the asphalt and the fencing and he wouldn't listen.

Right.---Like, I told him, "Can you please come down, like, actually come down," and, "Like, is it actually costing you this much?" Like, and Nima would say, "Yeah, that's how much it's actually costing," or, you know - - -

Was that because you were worried that someone within Downer would ask questions about how expensive these variations were?---No, I wanted, no, I
40 wanted to make sure that, you know, his price was, was the best price that he was actually submitting.

But you were by this point in an agreement to get profits out of this project. Presumably you were also receiving a share of profits on the variations, were you not?---Yeah, I didn't know what those profits were at that stage.

10 All right, but it wasn't really in your personal interest to be pushing down any of the pricing for variations, was it?---No, but I still wanted to help the project and I still didn't, like, I still wanted to help the project. I, I didn't want to take more than, than, than what was required for the budget or anything like that.

Okay. So you wanted to get the profit that was allowed by the budget but no more. Is that right?---Yeah. Or, or, yeah, yes.

Did you think in some way you were serving the interests of Downer by thinking that way, did you?---Yes.

20 All right. Because you weren't really serving the interests of Downer at this point, were you?---In, in what way, ma'am?

Well, in acting for RJS, working for them and helping secure their success on the project you weren't fulfilling your responsibilities acting in Downer's best interests were you?---Yes, ma'am. But I, I, I did want - - -

I didn't hear your answer there.---Yes, ma'am. Yes, ma'am.

You weren't acting in Downer's best interests?---In that particular sense, yes.

30 Right.---But I, I still wanted Nima to come down on the, on the price as much as possible, ma'am. That was, that's genuine. I still wanted him to give the best price possible.

Okay. And that was because you understood or were concerned that these prices for fencing and asphaltting were very inflated, is that right?---Were inflated. I don't know to the extent of the inflation but I, my understanding was that I believed that Nima priced them higher than what they should be.

40 Okay. And his response was to refuse to do that.---Yes. Well, he - yes, in a sense, yes, ma'am.

THE COMMISSIONER: How did you understand he was going to deliver these projects?---The variations you mean, Commissioner?

Yes.---He, he, he had Aidan who, who was looking after the civil works package and I believe Aidan was quite experienced in terms of, you know, delivering this, this scope of work and Nima said that Aidan would be delivering those. Aidan, Aidan used to come out onsite occasionally as well when Monty wasn't there as, in, in order to supervise the works so Nima said that Aidan had experience, that he was a construction manager or something for a tier 1 company and that he knew, you know, how to deliver all the scope of work.

And who did you understand that Aidan worked for?---I believe Nima said John Holland or CBD or someone in terms of - - -

No, at the time that he was working onsite?---RJS to start, yes.

And what about the other workers who were working onsite?---They were the subcontractors working for RJS.

So you understood that they were engaging subcontractors to do the asphaltting and the fencing?---Yes, Commissioner.

Thank you.

MS DAVIDSON: Did Mr Abdi discuss the landscaping tender with you? ---Yeah. That was something towards the end of the year he was quite adamant about trying to secure.

Right.---When I asked him why - - -

Now, there was a process for going to tender for the landscaping.---Yes.

Whereas I think you said you didn't go to tender for the asphaltting.---No.

Or the fencing.---With the, with the asphalt - - -

Are you able to explain why a different approach was taken?---With the asphaltting, ma'am, one of the issues was that it was, it was additional scope that was identified towards the end of the project. So initially we didn't

think that was part of our scope and then towards, towards the later end of the project we identified. I raised it with - - -

When you say we identified - - -?---As in like - - -

- - - that's we Downer or we RJS?---No, no, we Downer. We Downer. Downer as, as in Downer and Vlad identified that as additional scope and then I raised it with Vlad. I think the supervisor might have identified that and, and collectively we raised it I said, "Vlad, look, this is additional scope. 10 Do we plan for this or do we deliver it or what do we do?" At that time I believe Vlad said, "No, it's not part of our scope and let it sit." So the thing was I think we were coming to our last possession of the year so it was either we deliver it then or we don't which would be an issue, you know.

Because it was on a platform so it had to be done during a possession. ---Yes.

Is that right?---Yes, ma'am.

20 Right.---So then I raised it with Vlad and then Vlad just sat on it for, for about five, for a couple of weeks anyway and then a few weeks before he said, yeah, I got advised to deliver the scope and again because on rail there's, there's not much of an option to get anyone so what I did - - -

When you say there's not much of an option to try to get anyone, what do you mean?---In terms of, in terms of resources have to be booked in sometimes months in advance for rail jobs in order to get, to get like the crews to do those works and all that. It's just the nature of rail and the way the bookings were - - -

30

Is that because they've done it out of regular hours that it needs more planning in advance?---Yes, yes, ma'am.

Right.---Because you only get that short window and everyone on that line is also trying to book resources at the same time to try to do their works. So a few weeks before Vlad gave the go ahead but before that I think I told Vlad that we would get a pricing off RJS as a backup just in case if, you know, all else fails so we have something onboard. And I did that and we left it there and then coming to tail end of that I believe because we couldn't 40 secure anyone else we ended up having to go to RJS for the asphalt.

Do you remember making an effort to secure anyone else?---After, I believe after, I believe after Vlad gave the go ahead I believe I, I believe I did, I don't recall if I did or if I did not.

I think you said you were very keen and you were being pushed by Mr Abdi to get RJS the asphaltting.---I was. I was.

Right. So you were also - - -?---So I, I believe I told him that we have a pricing from RJS. Like, I, I went to Vlad.

10

You told Vlad that.---Yeah, we have pricing from RJS and this is the price. So Vlad, Vlad was aware. And then I believe when I showed him the price he said, "Okay, give it to them." So I think that, that was the way that conversation went.

Okay. So you didn't really spend much time or effort going out to other people, did you?---No, no, because I, I present, I said, like, "Vlad, we have one price, this is it. Like, what should we do?" And then I think he, he took a couple of days to think about it and then came back and said, "Yeah, okay."

20

Were you aware of whether Mr Abdi was pushing Vlad to accept the variation on the landscaping? I withdraw that. On the asphaltting.---I'm not too sure what conversations they had. Vlad and Nima sometimes used to go out for coffee when they were at Kingswood, maybe once a week or so when he was there. What, what exactly they spoke during that period, I - - -

Did Nima say anything to you about pushing Vlad on the asphaltting? That is on him, Nima, pushing Vlad on the asphaltting.---No, I don't, I don't, I don't think so. Whether he called Vlad up separately or they had conversations, I'm, I'm not aware.

30

All right. And how about the fencing? You said there was no tender on the asphaltting because of the timing issue. What about the fencing?---The fencing I think that was something Nima wanted to secure as well. So that was something he actually pushed to try to get.

Right. So he pushed to try to get.---With the fencing what happened, ma'am, was that in the beginning they submitted a price.

40

“They”, RJS?---Yeah, because they were a building contractor, they were the natural people to, you’d expect to just do a bit of fencing work.

Right. There are companies that specialise in just doing fencing, correct?

---There are, there are. There are, ma'am. But I think at that time we had to get someone locked in, so we were under pressure just to get someone locked in before Christmas to do the fencing, and I believe I rang up one or two companies and they weren’t available, so then went to RJS to also price it as well. They gave the price and then they committed to a particular
10 subcontractor, and then what happened after that was that the subcontractor that they had committed to couldn’t deliver, and then Nima asked me to step in and assist them to find another, an alternative subcontractor that can deliver - - -

And did you do that?---Yes, ma'am, I contacted subcontractors that were available and I told Nima to go speak to them, and I, and then he dealt with them from there.

All right. And was that at a time that the variation had already been
20 accepted for the fencing?---Yes, ma'am.

Right. But in any event, in that instance you were also, you’d agree, assisting RJS rather than Downer in relation to making sure that they could - - -?---Well, for me I felt like I was assisting Downer because I wanted to get that scope delivered as soon as possible. And then RJS, yes, I did in terms of assisting them with finding a subcontractor.

Right. But you wanted RJS to succeed in terms of the price that had been approved for the variation because you were getting some profit out of that,
30 right?---I was getting profit. I think Nima was more concerned about that aspect than I was. I was more concerned about the actual delivery of the scope.

Okay. Did you understand, if you were involved in getting subcontractors, did you understand that there was inflation involved in the pricing of the fencing variation?---I didn’t know the extent or what because I wasn’t privy to that from Nima. All Nima would just say is this the price and that it’s costing us that much if I ever, if I tried to query him about that.

40 Did you come to understand later that there was inflation in the pricing of fencing variation?---Yes, ma'am. When I understood was later on when I,

when Nima asked me to invoice RJS for the remainder of the payment. It was more than what I expected. And that's when I realised, you know, that, you know, the profit is, that Nima would have clearly, you know, either lied to me or the profits were what, way, way bigger than what Nima had led me to believe.

10 Okay. Had he led you to believe, as you were going along through this process, had he led you to believe that the profits would be at a particular level?---He led me to believe the profits were a lot smaller than what they were. He said that, you know, we're only making - he, he used to always say, "We're barely making anything on this," and stuff like that in conversation.

20 So when he gave you \$28,000 in September, did you understand that to be based on some sort of running tally of the profits of the project?---That would have been primarily for the building works and maybe the, the actual, the building tender that went through, so the base contract. It's, it's, that's my understanding. I don't have a full understanding of, of what that is, but from my understanding that's what I believe.

Did he tell you that?---That's what he said, yeah.

All right. We'll come to the subsequent payment. But just coming back to the landscaping tender, I think you said Nima was quite adamant about that.---Yes, he was, ma'am.

What do you remember him doing or saying in relation to that?---He wanted to secure, he wanted RJS to secure the landscaping works.

30 Do you know why that was?---No, he wouldn't say. I asked him why and he said, he said that, he told me that he knows a good landscaper and he, and that they can do a good job and he wanted RJS to win that.

Right. But that good landscaper wasn't RJS, presumably?---Huh? No. No. I think a subcontractor, yeah.

Right. 'Cause RJS was a building company?---Yes, ma'am.

40 Did you understand whether they had any previous experience in delivering landscaping works?---Nima said they did, so - - -

Nima said they did?---Yeah. I, I believe he said they did, ma'am, when, when, when I went and queried him about it.

So there was a tender process in relation to the landscaping?---Yes, ma'am.

Do you remember how it was that there came to be a tender process rather than just a variation as had been done for the fencing and the asphaltting?---I believe 'cause the landscaping was a, was a separate package, was like a, the separate package and it involved a maintenance, as well, period for one
10 year, which had to be kind of drafted up in the contract, which means that, you know, the trees had to be watered and, and the area maintained. So it, it fell under different clauses for the building works package, yeah.

I see. So it was because of that ongoing maintenance component that there had - - -?---Yeah.

- - - to be a separate contract - - -?---Yeah.

- - - in relation to the landscaping?---'Cause that would exceed the, because,
20 'cause that would allow then Downer to close off the building contract and continue this for, for a separate period.

I see. Did Mr Abdi again provide you with subcontractors to approach in relation to - well, I withdraw that, with contractors to approach to tender for the landscaping package?---Yes, ma'am, he did.

And do you recall who they were?---One was RJS and I don't recall the other two, ma'am. If, you, you would, would have, you might have - - -

30 Ballyhooly?---Ballyhooly? Yeah, sounds familiar, yes, that might be one.

Marble Arch?---Marble Arch, yeah. I think those were the three, ma'am.

All right. Mr Cox was working onsite at the time, I think you'd indicated. Were you aware of any association between Mr Cox and Marble Arch?
---No, I wasn't, ma'am.

Did you know anything about Marble Arch or Ballyhooly?---Ballyhooly, they assisted with the asphaltting - - -
40

Right. Did you understand them to have any experience in landscaping?

---They were a civil company, like, they were fairly sizeable, so I wasn't surprised that they would, that they would do, I wasn't surprised that they were, they would be able to do landscaping, so - - -

All right. Could we have volume 1.5, page 140, brought up on the screen? So this is an email that you sent to Ms Yip. Was that somebody else in the procurement area?---Yeah. I believe she was essentially Scott Harman's replacement after he left.

10 Right. Scott Harman had moved on by then?---Scott? Yes.

Right. So these are the contact details or the names you'd been given by Mr Abdi. Is that right?---Yes, ma'am.

Again, do you recall how he gave you those details?---Again, I believe those might have been through text message, probably on WhatsApp for those, ma'am.

Probably on WhatsApp?---On WhatsApp for those.

20

Do you recall a time when you started communicating more by WhatsApp with Mr Abdi?---I believe, probably maybe from August, September or so, maybe, like, I, I, I don't particularly remember when, ma'am. I can't, like, sorry, if I can't answer that but - - -

Was there a discussion you had with him about using WhatsApp?---No. I mean, WhatsApp was also used by, I think, like, Downer in Transport. They used to create groups. So it didn't seem like any different method to communicate. It was an existing method that was being used, as well. And
30 Transport used to have their own WhatsApp groups, where they used to do updates, as well, and Downer used to, as well, for possessions and all that. So it didn't seem like anything out of the blue for me.

Did he say to you at some point, let's use WhatsApp?---I believe he, he did, yes. Yes, ma'am. Yes.

Right. And did you respond in any way?---I, I said okay, if, if - - -

40 You set up a group or set up a chat?---No. I think it was just, like, direct message on WhatsApp. There wasn't a group or anything like that. He just used to message me.

All right. So I think you said you understood from Mr Abdi that he knew a good landscaper. That company wasn't RJS, presumably. Did you understand who that company was?---No, Nima didn't tell me. Yeah.

All right. Did he tell you about the reason that he was suggesting that landscaper or - - -?---No.

10 - - - wanted that landscaper to be involved in the work?---Sorry? What, what - - -

Did he tell you the reason that he was suggesting that landscaper - - -?---No, he, he didn't.

- - - or wanted that landscaper to be involved in the work?---He didn't.

Quotes needed to be provided within a relatively short period of time, according to this email - - -?---Yes.

20 - - - you'll see that. What was the process that was then followed after the quotes were submitted on the landscaping?---I believe there was a comparison, similar to that form that you showed earlier, ma'am, and there were, there was a comparison and then similar to that, there was an approval process at the bottom.

All right. And were you involved in that comparison process? I think you said that was the first time you - - -?---I didn't generate that. That was I believe generated by the Accounts Team possibly. I, I don't recall generating that comparison. Yeah.

30 But you recall seeing it?---I, I do recall seeing it.

All right. Could we have volume 1.5, page 158. Now, this is an email from yourself to Mr Nguyen, copying Mr Stanculescu, on 2 December - - -? ---Yep.

- - - giving approval in relation to the landscaping.---Yep.

40 Did you have an approval role in relation to the landscaping?---No, Vlad would, Vlad would instruct me to send that email and then I would send it and CC Vlad in.

Right, okay.---Yeah.

Might that be a convenient time, Chief Commissioner?

THE COMMISSIONER: I'll adjourn.

LUNCHEON ADJOURNMENT

[1.01pm]

10