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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 MONDAY 17 APRIL, 2023

AT 10.00AM

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

THE COMMISSIONER: Yes, all right, thank you. Ready to resume?

MR ENGLISH: I believe we are, Chief Commissioner. Mr Abdi is seated at the back of the Commission.

THE COMMISSIONER: Come forward, please. Mr Abdi, you're subject to the same affirmation that you took last week - - -

MR ABDI: Yep.

10

THE COMMISSIONER: - - - to say the truth. Do you understand?

MR ABDI: Yep.

THE COMMISSIONER: Thank you.

MS CEIC: Good morning, Chief Commissioner. If I could just announce my appearance. It's Ms Ceic, C-e-i-c, for Mr Abdi.

THE COMMISSIONER: Sorry, you're Ms Ceic?

MS CEIC: Ceic, yes.

10

THE COMMISSIONER: Ceic. Yes, Ms Ceic, you've been granted authorisation.

MS CEIC: Thank you, and I'm joined with Ms Nekoodast as well. She's before the Commission.

THE COMMISSIONER: Thank you.

MS CEIC: Chief Commissioner, I just wanted to put something on the record. Earlier - - -

20

THE COMMISSIONER: Sorry, you'll need to speak up.

MS CEIC: I just wish to put something on the record if that's okay.

THE COMMISSIONER: It's a big room, yes.

MS CEIC: About 10 or 15 minutes ago a member of the administrative staff here was having a conversation with the special constables outside in earshot of our client about needing a special constable in the room today and saying some unkind words about what took place at the Commission not so long ago with Mr Abdi. I just ask that the administrative staff be told to perhaps have those private conversations in a private room or with the door closed, given our client's mental health issues and what took place last time.

30

THE COMMISSIONER: I'm not aware of the mental health issues. I am aware that there was an incident which occurred on a previous occasion which resulted in the witness needing some time to get some advice, but I don't know what happened following that.

40

MS CEIC: Well, following that he's sought some psychological assistance, which is an ongoing - where there's ongoing appointments.

THE COMMISSIONER: Yes, all right. Thank you for drawing that to our attention.

MS CEIC: Thank you.

THE COMMISSIONER: Yes, is there anything else you want to say?

10

MS CEIC: No, Chief Commissioner.

THE COMMISSIONER: Thank you. Yes, all right, thank you.

MR ENGLISH: Thank you, Chief Commissioner. If volume 3.8, page 106 can be brought on the screen. And, Mr Abdi, you remember we were dealing with Victoria Street last Friday afternoon.---Yep.

20 I just want to come back to a couple of points in relation to that matter and then we'll move on. 3.8, page 106.---Yep.

So you might recall we saw this document. This was the Downer subcontractor for, recommending Sanber Group for Victoria Street and it shows a loss. Do you see that?---Yep.

And above that it shows the prices of the other tenderers, do you see that? It says "tenderer's price, Sanber, Rapid, Dabcorp" and there's a number of others that declined.---Yep.

30 So it appears that that loss may have been avoided if Rapid was chosen as the tenderer for this site. Do you agree?---Um - - -

Minimised or avoided.---Yes.

40 And if we go back to page 80 of this volume, please, you can see here this is the document from 13 July 2017, and just for your benefit, that Downer document we just looked at is of the same, is of the same date. And here it says that the price difference between the three bidders was discussed with Michelle, Fernando and Nima from Transport, and they were all in agreement with proceeding with Sanber. Do you see that?---Yep.

So the three of you agreed on Transport's behalf to wear the loss on the pain/gainshare issue by going with Sanber Group, that's right, isn't it?---No. Yeah, like, I don't remember this. I, I, I wasn't part of this project.

Well, it's saying - - -?---So I don't know why my name's in this email.

But "Nima from Transport", there's not another Nima from Transport that you're aware of, is there?---Well, I think there was, there was another one, but I - - -

10

What was that person's name?---Oh, don't know. I can't remember his last name 'cause I used to get emails, accidentally emails from him, and - - -

I think you agreed on Friday that Nima was you?---Yeah. Just, I, I, I don't think, I wasn't on this project. There's no way I would have spoken to these guys.

20

Well, do you recall having any discussion with Michelle and Fernando about the award of the Victoria Street package to Sanber Group?---Not really.

Well, you don't say that this reference to Nima is the other Nima you've just spoken of for the first time today, do you?---I don't know. I don't know.

Okay. Well, it seems squarely it's you, would you agree?---Yeah.

Okay. And so what contribution, if any, do you recall in relation to this issue, that is approving Sanber Group ahead of Rapid?---What did I do?

30

Yeah.---Nothing.

Well, it says you agreed with proceeding with Sanber. Do you recall that?---Yeah, no, I don't recall it.

All right.---But - - -

You're doing your best to recall things as best you're able to today?---Yep.

40

Okay. And remember I asked you some questions about how much money you personally received from the Victoria Street project?---Yep.

And I think you said was it 30 or \$40,000 cash?---Yeah, I don't really remember exactly the amount, like the exact amount. Yeah, it would have been, I don't know, I think something around there.

And I took you to those spreadsheets that suggested that your entitlement was between 123 to 128,000. You recall that?---Yep.

10 If we go, please, to volume 8.1, page 208. Sorry, if we can start with 206, please. This is - we had a look at this as well on Friday. This is Mr Aziz's email using Guerrilla Mail to Mr Sanber on 17 April 2018. You see that?
---Yep.

If we go to the next page, which is 207. In the bottom left, if we can just make that a little larger, please. It says, "Total credit paid to NT as of 15/4/18", and NT, I think you accepted on the last occasion, is Nima and Tony?---Yeah.

20 So it says by this stage, that is 15/4/2018, you'd already received credit between the two of you in the order of 183,000 from this job.---Yeah, I don't, I don't think - that's not true. I - - -

Well, just bear with me, just bear with me. So then if you look at the right-hand side, there's another box that says final credit outstanding. Do you see that?---Yep.

And it says "NT owed \$64,065."---Yep.

30 And so this is a spreadsheet Mr Aziz has prepared. Now, it might be, might it not, that what you received as an ultimate payment was half of that \$64,065 which would equate to your evidence that you received, you know, 30 to 40,000 in cash, but prior to that you'd either been paid or you had credited to your benefit some, you know, \$91,500 as the project proceeded and moneys were made. Would that be right?---It would, it wouldn't have been in the business. It would have been in, in, like, in the business but - - -

But you were having the business pay for personal items, were you not, at that time?---Yes.

40 Whether it be for the farm at home.---Yes.

And did you have any improvements to your property that the business paid for, home improvements?---Not that I can think of.

No kitchen work?---No, no kitchen, yeah, no.

Okay. Certainly a shed was built?---Yes.

10 So mightn't it be that that's actually right, you did receive 123 to \$128,000 from this project either by way of cash or by way of payment in kind from your business?---I don't know. I don't remember because, like I said, there was just arguments and fighting and they're just, yeah, it was just, yeah.

All right.---Just, just, there was no clear cut, just arguments and fighting.

And this led to you falling out personally with Mr Sanber. Is that right? ---Yeah. Yeah.

Have you seen him again since that time in 2018 when you fell out? ---When?

20

Yeah, have you seen him since then? Did you keep in contact with him after that?---No, I never kept in contact. No.

All right.---I saw him, I saw him after the raids.

After the search warrants were executed.---Yeah.

Where did you see Mr Sanber then?---I think I went to his house.

30 So that was in 2020.---Yeah.

Late 2020. Is that right?---No, like, like, like mid-2020.

Was it mid-2020?---Yeah.

Okay. And had you not seen him since 2018?---Yeah, nah.

40 Okay. So you arrived at his house. Did you tell him you were coming beforehand or you just turned up?---No, I just went there to see if he's there.

And you rang the doorbell.---Yeah.

Who answered?---He did, I think.

Okay. And what did he say to you when he saw you out the front of his house?---He was just surprised and then, yeah.

10 What did you want to raise with him? Why did you feel the need to go to his house?---Well, I was just having a panic attack, and I was just panicking and just wanted to speak to him and I just wanted to just speak to him and stuff like that.

What did you say to him?---I don't really remember but the main thing was just, like, like, "You have to say," because there was no proof of me being a, a partner, so - - -

In Sanber Group?---Yeah.

Yeah.---So I said, "You have to say that I was a partner."

20 Why did you feel the need to tell him that he had to tell other people that?
---Because, like, to show that I was a partner.

But why did you want other people to know that you were a partner in Sanber Group?---So just so it all, because the, so, like, it makes sense with the shed and, like, you know, with all the, the spending on the farm.

30 So you were concerned that people could follow a money trail back to you but because you weren't a registered shareholder of Sanber Group, what, that would raise difficulties for you, would it?---Yes.

In what context would it raise difficulties?---Well, like, no, I don't think it was, I think it's the, I can't remember if it was because of the allegations from the internal investigation from, from the Transport investigation that they said that, I, that it was a gift or something. I can't remember.

So you can't remember if it was the ICAC's investigation or Transport's investigation into your conduct that led you to see him, is that right?---Yeah, I can't remember, yeah.

40 And what did Mr Sanber say when you said to him, "Make sure you tell people I was a partner in Sanber Group"?---He just, he didn't really say

much. He was just a bit, he was quiet. He didn't, didn't say much and that was, oh, I don't know, didn't really react to it too much.

Did he tell you that he agreed you were a silent partner? That is Mr Sanber told you that?---Oh, I don't remember, not, not that, I don't remember that day, but we started the company together, but I don't remember.

All right. Did you tell him to delete material from the mobile phone? That is Mr Sanber.---No.

10

You didn't have any concerns that there might be incriminating evidence floating around between the two of you?---No.

But you were concerned - - -?---I didn't even think about that. I was more about the, the partner and stuff like that.

Did you say at any time to him, "We need to make sure that what we tell whoever's investigating us is the same. We've got to get our stories together"?---Yeah, like along those lines, yes.

20

And what was that discussion you had?---The same, like to say I was a partner and, and what we spent on the farm was a, was like a business thing, like, you know, business thing.

And from your point of view, were you encouraging him to tell others things that were true or that were false?---No, I didn't say anything like that.

30

Well, no, your evidence is that, just a moment ago, that you wanted to speak to him to make sure that he told people you were a partner in the business, in Sanber Group, and also in the farm, is that right?---Yes.

In the farm business. Now, from your point of view at the time, were they truthful assertions that you were encouraging him to tell other people?
---Yes.

40

Okay. And when they saw you at his house in 2020, having not spoken to him for around two years, what did Mr Sanber say to you? Was he pleased to see you or did he ask you to leave or how did the conversation go?---Oh, like I said, he was just really quiet and, and just, yeah, he just, yeah, wasn't saying much.

Okay. All right. Well, after - just heading, going back into 2018 - after you split ways with Mr Sanber, a decision was made, wasn't it, to form RJS Infrastructure Group Pty Ltd?---Yes.

And a decision was made to give it that name because Victoria Street, in your view, had gone quite well, is that right?---Yes.

And you became a silent partner in RJS Infrastructure Group, correct?
---Yes.

10

And you wanted to trade off that name and the reputation that had been built in relation to the works at Maitland, is that right?---Both Tony and I did.

Okay. So if we can go to volume 1.2, page 40, please. This is an email chain, and we'll start at the bottom, but you can see it says "Fw: project appreciation from RJS", do you see that in the subject line?---Yep.

20

So if we go down to the page at, the following page at the bottom, you can see on 18 June 2018 Mr Nguyen sends that email to Mr Aziz, "Dear Abdal, that you for given RJS Infrastructure Group an opportunity to carry out the works for Victoria Street Station upgrade." Do you see that?---Yep.

Now, that was not a true statement, was it, because it was really Sanber Group that carried out those works, correct?---Yeah.

Were you aware that Tony Nguyen was sending this email to Mr Aziz at the time?---I can't remember.

30

You're not copied in, in fairness.---Yeah.

He goes and says, "I appreciate the effort you and your team have professionally demonstrated throughout this project together. As one team we have achieve" - it should be "achieved" - "what we have set out and I look forward to working with you again in the near future. If you need any assistance or pricing inquiries, please do not hesitate to contact me directly." Do you see that?---Yeah.

This is fairly contrived, this email, isn't it?---Yeah.

40

And were you aware that around that time, 18 June, that another package was coming up for Central.---I'm not sure. I don't know.

Well, you would have been speaking, wouldn't you, the three of you, that's Mr Nguyen, Mr Aziz and yourself, "Well, what other works? The TAP project is still ongoing. What can we get into?" Correct?---Yeah.

And you can see what happens. Mr Aziz on 5 July 2018, he then forwards an email on to Gareth Hutcherson saying, "You can get these guys to price the Central conversation works." Do you see that?---Yeah.

10 And if we go to the next page, that was - sorry, upwards, I'm sorry, you can see Mr Hutcherson responds back, "Hi, Abdal. If you could get a brief scope drafted I will set up the other tender documents ready to send. It's read to send out." So it seems that's how RJS was put into the tendering mix for the Central conservations part A works, correct?---Yeah.

And what did you do in relation to that job for RJS Infrastructure Group?
---For RJS?

20 Yeah.---I don't really remember. I think I, I must, I would have just looked at the design initially right at the front, or the methodology or something like that. Just looked to see if we could actually do it and, yeah. It would have just been that.

All right. And do you recall having a discussion with anyone about that, about the design and whether RJS could pull it off?---I would have had some conversations with Tony. I just can't remember exactly but I would have had some conversation with Tony.

30 And when you say RJS could pull it off, said, "We could pay it off," it was always just going to be subcontracted out, right?---I'm not sure if just - - -

Well, RJS didn't have employees, correct?---Yeah.

And you were all at work full time so you weren't going to do it, were you?
---Yeah.

40 So when you say, "Whether we could pull it off," is that just seeing if we can have subcontractors do it and then - obviously those subcontractors included in their works - I withdraw that. Were you just seeing if we can have other people come in and do the works and there's sufficient profit left

over for us?---Yeah, but it was, like, the, like it was to physically do the work as well, like, to know if we can do the work physically.

All right. If - - -?---Like if it's too high risk or not, like, or if it's, nah, if it's okay or not.

10 Okay. If MFI 11 can be brought up please, and the page for the Central Station - MFI 10, it is, thank you. All right, so this is a slide for the Central Station job. Now, you can take it from me, Mr Abdi, the original quote was for \$92,200 and the balance was variations. Do you recall that?---Yeah, something, yeah.

And I can take you to some of those documents. Do you know why there was such a large proportion of variations in this job?---I don't remember it was variations or - like, there was some variation but I thought it was a "new scope".

Yeah, but that new scope went straight to RJS, didn't it?---Yes.

20 It didn't go out to tender.---Yes.

And did you know that there was to be more scope when the first bid was placed or was this something that came up along the way?---No, I think this just came - I don't, to be honest, I don't remember.

All right. And is it right - it says there "subcontractors". But it's right, isn't it, that Constructicon and Ballyhooly Civil were just engaged on a labour-hire basis?---Yeah, I think so, yeah.

30 So RJS was the project manager for this job?---Yeah, I, yeah.

Okay. And you can see the profit split. Do you see that? 198,000. Do you see that?---Yeah.

40 And it says you received a third. Is that about right?---Well, it all went into the company profit, so I again, like, this is the same story with Raja. Like, it all went into the company and then it was meant to stay in the company, the profits, and then, then, yeah, like, Tony did the same thing as Raja and then, yeah.

All right.---But I don't know exactly what I got.

All right. Well, we'll come to - Mr Nguyen prepared a spreadsheet which shows how much money you were said to have earned from this project. Were you concerned at all, thinking back to when you went and saw - or when you found out that there were investigations going on into your conduct, were you concerned at all that it looked like you were just receiving secret commissions as opposed to doing any work?---Well, not in that way. I was just concerned that, yeah, it looks like - I don't know, I don't even know what I, what I thought, to be honest.

10

All right. So if we go, please, to volume 1.2, page 65. This is RJS's quote for \$92,200 for the Central Station conservation part A works. You see that?---Yep.

And if we go to page 75, you can see Constructicon provides a quote. That's Monty Nguy's company, or Nguy's company, isn't it?---Yep.

And that's for a higher amount, \$115,000. You see that?---Yeah.

20 You were aware, were you, at the time that Constructicon was putting this quote in?---Not really. I, I, to be honest, I don't remember.

Well, you must have had some discussions with Mr Nguyen and Mr Aziz to make sure that RJS got the job, right?---Yeah, I don't remember. Yes, but I don't remember.

And if Constructicon was putting in a bid, you would have known that this was to be a dummy bid, correct? To enhance RJS's chance of getting the work?---This, yeah, yeah, I guess so.

30

Another company called Oriel, O-r-i-e-l, submitting a quote for this job. Have you ever heard of Oriel?---No.

Okay. They ultimately did not proceed. Just looking at this Constructicon quote, if we go down to page 79, you can see there there's some metadata for this. It references Mr Nguyen's name in the entity person. Do you see that?---Where is that?

40

Just above the middle of the page?---Oh yeah.

Just bear with me one moment. In any event, were you aware if Mr Nguyen prepared this quote for Constructicon?---Oh, I can't remember.

Well, you knew that that was what Mr Nguyen was doing at the time, didn't you? He had the passwords for Constructicon so that he could prepare quotes on their behalf on a dummy basis. You were aware of that, weren't you?---I don't know if it was at that time or I found out later on that he could do stuff like that, but, yeah.

10 All right. If we can go to page 306, please, 1.2 page 306. You can see here the original subcontract works value at 92,200 plus the variations at \$418,297.---Yeah.

And you can see Mr Aziz has signed this progress certificate. Do you see that?---Yeah.

And if we go to the next page you can see the individual variations.---Yeah.

20 Now, given Mr Aziz's role, as we just saw, would you expect these to have been inflated, these variations?---I can't, I don't really remember because I was very, I was not really that heavily involved in this job, so I don't really know. Like, I, I can't read them either.

If it can be blown up a little, please. A bit more, please. You can see the major variation, there's the CSR works. Do you see that?---Where's that?

Number 5.---Yep.

30 Is that what you said was the new scope?---Yeah, I think so. I don't know.

It's not usual, is it, to have variations on a project that a four or five times the size of the original scope?---Is it usual?

Yeah.---I, I don't know.

Well, in your experience at Transport does that happen that variations are four to five times the size of the original scope?---Well, yes and, yeah, I mean, like, I can't think of any but I have - yeah, it does happen.

40 From time to time.---Yeah.

Well, you must have been very pleased to learn that the variations were so valuable to RJS, is that right?---Yes.

Yeah. And given the involvement of Abdal Aziz, it's likely, isn't it, that these variations were inflated?---Yeah, possibly, like, I guess. I don't know.

Well, he'd make money out of it if they were, wouldn't he?---Well, yes. Yeah.

10 Yeah, just like you and Tony would as well, correct?---Yes.

So if we go to page 377, please. You can see there this is Mr Nguyen's spreadsheet, if we can zoom in a bit more so it's a bit easier to read. Thank you. So for Central he says the profit is 218,000 to be split three ways. So ending up with an ex-GST figure of \$66,207 for you. Do you see that?---Yes.

20 Is that about right?---Oh, I don't know. Because, like I said, my profits would be in the - like I, like I said, it's the same thing, my profits will be in the company. Like, we, we would tip in the company and then at the end - well, yeah, when we, we, then, then he'll pay me from all the jobs and all the profits.

30 You're not saying that you didn't pay attention to how much profit would be paid to you pursuant to these jobs, are you?---Yeah, I, like, I didn't really, like, I don't really remember, like I don't - like, it'll be, yeah, I don't know. Like, because, like I said, all the profits goes into the business and then when we - well, we were never meant to touch it but then, yeah, and then we, and then, then at the end of the year or at the end of, like, the, like the financial year or before it, we would, he would transfer the amount, like the total amount into my, into my, into my account.

This is for, into a JTG account?---Yeah, yeah.

So from Central Station onwards, whatever money you got was not in cash, is that right?---Yeah.

It was paid pursuant to JTG.---Yeah.

40 Providing an invoice to RJS Infrastructure Group.---Yeah.

Okay. And you don't recall what your individual split was for Central, is that right?---Yeah, I, not exactly.

All right. You haven't seen this spreadsheet before?---I don't know. You've shown me a thousand - you would do a thousand spreadsheets and I just - - -

But you're an engineer, right? You use spreadsheets yourself, correct?
---Yep.

10

It's nothing that you'd be unable to read and follow, something like this, would it?---Yeah, no, I probably would have looked at it, like, I probably would have looked at it at some stage.

Well, you certainly would have looked at it because it's money flowing into your company's bank account, potentially, correct?---Yeah, yeah, yeah.

So do you recall seeing this, this spreadsheet, that identified that you were to be paid around \$66,000 ex-GST for Central?---Maybe. I don't know.

20

It shows the moneys for the Lithgow job as well that you received a profit split from, correct?---Yeah.

And this time it says for Lithgow you got \$221,000 ex-GST, correct?
---Yeah.

You recall receiving a figure of that amount for Lithgow?---Like I said, I don't, like, yeah, would be but, like I said, it was just all, all the, all the jobs combined together.

30

Well, what did you do for the \$221,000 for Lithgow?---Oh, again I would have just, just, I, would have been just the initial, before we even did anything, just to look at, just to look at the drawings and just, just, yeah.

Well, would you agree getting 66,000 to look at drawings is a lot of money?---No, because it's the company profits.

Yeah. So it's just really in the form of a secret commission to you, isn't it?
---No, it's not.

40

You say you did work to entitle this, to entitle yourself to this payment, is that right?---No, I, because I was a partner in the company.

All right. But what value were you adding to the company?---Just every, like, you know, looking at designs, looking at methodologies. Sometimes trying to contact trades. Like, I don't remember. Like, I don't remember exactly what.

10 Well, was it your value that you brought in Mr Aziz on the Downer side, correct?---Mmm, no, my, no, because we started the company at, in, with ASN. We, we started the company at ASN.

Yeah, but that company was deregistered and so was Sanber Group, correct?---Yes.

So here's RJS. What's your value to RJS?---Well, the idea was the same idea again as before, like, to build, to, you know, try to build the reputation and then quit our jobs and run the company full time, but - - -

20 But all you were doing, in fairness, and tell me if you agree with this, Mr Abdi, was you were trying to corrupt officials from either Transport or Downer who could then, or to use your words, to control, who would then ensure that the project would be awarded to RJS and payments would be made pursuant to those arrangements. Is that true?---No.

But we'll come to some telephone calls where you use those words, "Who can you control?"---Yeah.

30 That's what your role was, wasn't it, to find people you could control who could corruptly award these contracts to RJS Infrastructure Group. Isn't that right?---Nah.

In the witness box as you sit there right now you're denying that, are you? ---Yeah.

On your affirmation?---Yep.

All right. In Lithgow Mr Cox came on board, correct?---Yeah.

40 Aidan Cox.---Yeah.

He was the one who had the technical skills and knowledge from an engineering perspective, correct?---Yep.

You weren't required to look at plans and provide any technical input because Mr Cox was there. Isn't that right?---Yeah, at the, like, at the later, like, yeah. At the, like, yes, but, like, he wasn't coming on as RJS. He was coming on as a, like a contractor.

10 But Mr Nguyen wasn't going to take on Lithgow because he didn't think it was achievable, correct?---Well, we, we all had to, we all, like, were worried about it. Like, we all went through the design and the methodology and like just brief, like a high level, and then, and, yeah. I don't remember.

And before Aidan Cox was brought in a decision was made that it was too hard to take on the job. Isn't that right?---I can't remember the exact conversations, but, like yeah, we were trying to, yeah, figure out, yeah.

20 Yeah, trying to figure it out and Tony, and then Tony brought up, so Tony kept pushing and saying, "No, well, let's bring Aidan. Let's bring Aidan." And then, and then, yeah, he just, yeah, he pushed and then I said, "Okay. Well, bring him on," and then, and then that's it, yeah.

And Mr Cox was able to come up with a new methodology that meant the works could be done within the possession window and profitably, correct? ---Yes.

And it was only then that RJS Infrastructure decided that it would put its hat in the ring for the tender, correct?---I don't remember that but yeah.

30 Okay. What did Mr Nguyen tell you was the agreement by which Mr Cox was coming on board to assist RJS Infrastructure in relation to Lithgow? ---Like, as a contractor, so we brought him in on day rates.

Yeah. So just looking at this document that's on the screen which his volume 1.2, page 377, here Mr Nguyen says that the total value of the Lithgow project to RJS was 1.85 million including GST and the cost of the works including GST was 1.119 million. Do you see that?---Yeah.

40 Leaving a profit of 730,000 to be split three ways between you, Mr Aziz and Mr Nguyen, correct?---Yeah.

All right. Were you aware that Mr Nguyen struck a separate deal with Mr Cox to bring him on as a profit share partner in this project?---No.

Have you been paying attention to the evidence in this inquiry which suggests that's what in fact occurred?---I haven't been, like paying too much attention because I was advised not to by my doctor but I think I read something about the opening statement or something, I don't know.

Well, if we can go to volume 1.3, page 367. If that can be increased in size.
10 This is another spreadsheet that Mr Nguyen prepared but one that he didn't share with you where he - see that TN and AC Only Actual-Actual? Do you see that?---Where?

It's the column in orange.---Oh, yeah.

So Tony Nguyen and Aidan Cox Only Actual-Actual and what it shows is that they kept \$526,000 at the bottom to themselves.---Yeah.

In relation to the Lithgow project. Were you aware of that?---No. But like I
20 said, like, when, I don't know exactly when but the, the, the, the agreement always was that you have the separate business accounts. So I have access to the bank account details of all the bank accounts and I, I always said, "Don't send any spreadsheet" or "Don't keep showing me spreadsheets. You've got to give me the, the login for the bank accounts. I will just go in and, and do all the, you know, see how much we have been spending" and stuff like that and then, and then he, he kept, he kept pushing me away and making excuses and, and then he kept making excuses and then, yeah, and then I, I, I started to realise, oh, he's done the exact same thing as Raja.

30 All right. So when did you ask for the bank statements, to be given access to the banking details for RJS Infrastructure Group?---Well, from, from the beginning that, like, we just had, like, a verbal conversation where, oh okay, so make sure it's separate, it's a, it's a separate business account and then, but I didn't really push, I just said, "Oh, okay. Just make sure it's there and send me the details when you have it" and that was it. I didn't really chase it anymore because I kind of like, I like didn't really, like, I forgot and, and then, yeah, and then when we - I don't know when, I don't know if it was with we finished Lithgow or I don't know when.

40 But in any event did Mr Nguyen take some time off work to do the Lithgow project, do you know?---Yeah. I think so, yeah.

Was there a two-week possession there?---Yes, that's right.

And you weren't working on that possession, were you?---No.

It was predominantly Mr Cox and Mr Nguyen, correct?---Yeah.

And so you were receiving your share of \$221,000 ex GST essentially for doing nothing, right?---No, well, yeah.

10

Now, in relation to Kingswood, what did you do there? you were paid money in relation to Kingwood by RJS Infrastructure Group, that's right, isn't it?---No. I was paid a share of the profit. Like, the, the profits went into the business and then at the end we, well, because - yeah. Well, and then because I started thinking it's, like, it's, I wasn't, like, the trust broke down so I started, like, saying, "Okay, pay me my share of the profits."

20

But do you say you did any work for RJS's benefit on the Kingswood project?---Not really. I've, maybe I just looked at the, the, the costs, like, the estimates, like, the costing.

So you just looked at the costings, did you?---I think so, yeah.

What about Mr Pilli? Didn't you bring him in onto the project?---Yeah.

Well, that was some work you did for RJS's benefit, wasn't it?---Well, not really. I, I mean, well, I didn't see it that way.

30

Well, he was given a share, wasn't he, of the profits, Mr Pilli?---Mmm, yeah.

And it was you who had the contact with Mr Pilli, correct?---Yep.

Why would you bring him in and promise him a share of the profits if there was no benefit in it for RJS Infrastructure Group?---Oh, yeah, I guess so, yeah.

40

So how was it that you spoke to Mr Pilli and brought him in on this project at Kingswood?---I don't really, I don't really remember, but I think he's looking for, like, he's, the, he's gone out for the building package and they were running late or something, and he was looking for a builder and I, and

I told him about RJS. And, and then, yeah, and then - yeah, and then that's it. He just put us on the list and he came back and he said he needed more, like, if there was needing more builders. And I asked Tony and then Tony sent me some details and then I gave it to him.

And was that for SDL and Constructicon?---Oh, I think so, yeah.

So you gave RJS, SDL and Constructicon to Mr Pilli and, what, asked him to send the tenderers out to those parties, did you?---Yes.

10

And you knew that would have been a rigged tender if it was to proceed in that way, correct?---And the idea was always to have RJS Infrastructure win that tender, is that right?---Well, yeah, try to, yeah.

Well, you had Mr Pilli, who was involved in sending the packages out, correct?---Yes.

You promised him a share of the profits for RJS if RJS was awarded the contract, that's right?---Yes, yes.

20

And you'd given him another two, the details of another two contractors who you knew Tony Nguyen essentially controlled, correct?---Yes.

All right. Now, why did you think you could involve Mr Pilli in it? What did you see in him that enabled you to have the confidence to raise with him that you were involved with RJS Infrastructure and that if he assisted you he could get a split of the profits?---I don't really remember how it came about. I don't know. I don't really remember, to be honest, like, 'cause I thought, I think there was conversations, like we were having, like I think we were
30 having conversations he needed, like he wanted to, like he wasn't getting paid enough or he wanted a new job or something, he was looking for a new job. And then some, like, just those kind of conversations. And then, yeah.

So Mr Pilli told you he wanted to earn more money and he wasn't happy in his job, is that right?---Yeah, it was just like those general conversations, yeah.

40

What did he say about his job that was making him unhappy?---Well, at the time, don't know if it was at that time but originally it was the pay and, and, and the pay and the workload. And then, then, then I think he didn't like - I

think he had issues with Vlad or with the project, his project manager. Like, I don't know if it was that time but, yeah.

What did he tell you about the issues he was having with Vlad?---Just, just general stuff, like, I mean, just like how he's, he was just - I can't remember exactly what but just he, he was pushy and demanding and stuff like that. I can't remember exactly. I don't really remember exactly. Just - - -

All right. And - - -?--- - - - just whinging about his boss, like.

10

You said he wanted a new job. Did you help him look for a new job?---I don't, I don't know if I was, he put me as a reference or - I didn't, I don't know if I, I can't remember if I actually, like, like, I don't know if I referred him to anyone. I can't remember that.

All right.---And I don't know. I don't know. Maybe he used me as a reference. I don't remember.

20 So you thought you could help him, either, what, get a new job or, or to improve his current working situation?---No, because I think he was saying that he was trying to get married or something like that and, yeah. I don't know.

Why did that come up? He needed money, did he?---Yeah, he was just, yeah. Like, he was just, just, just in just everyday conversations about just whinging about, like, his pay, like his current salary and workload, and, and he was looking at getting married and all this, like, yeah.

30 So you saw that he might be able to, well he might be interested in earning some money on the side, did you, through assisting RJS Infrastructure Group with the job at Kingswood?---Well, I didn't really think of it like, like, yeah, I guess so, yeah.

Yeah. Well, I mean, it would have been a risk, wouldn't it - let me start again. You told him at some stage you're a silent partner at RJS Infrastructure Group. Is that right?---Yeah, that would have been later.

Later.---Yeah.

40 So what was the first conversation you had with him about him earning money on the side, then?---I don't remember exactly but it was just more,

“If you help out, you can help out (not transcribable) onsite and,” just, yeah, I don’t remember exactly but it was just along those lines.

But if you’re saying, “If you can help out on site for RJS you’ll earn some money,” it stands to reason you must have explained to him that you had the ability to authorise such payments on RJS’s behalf, correct?---Yeah. Yeah, it would have been, yeah.

10 So you must have told him from the word go that you had an, an interest or involvement in that company, correct?---Yeah. I, yeah, I believe so, maybe.

All right. And how much did you tell him he would receive if he could provide assistance to RJS Infrastructure?---I don’t know exactly. I don’t know exactly how much. Maybe, I don’t know exactly how much, maybe like a third or something, or like 30% or 20%.

So he was going to get a third of the profits, was he, on the job?---Yeah.

20 And who were the other two-thirds going to, yourself and Tony?---RJS, yeah.

Well, when you say RJS, what do you mean by that?---Yeah, like, the company, like us, yes.

Okay. And how was he when you first raised the idea of being paid money by RJS? What did Mr Pilli say to you?---I don’t remember. Like, I mean, he was just, like, “Okay,” like there was, I don’t remember. Like - - -

30 Well, was he enthusiastic about that possibility?---Yeah. I mean, like, he was just like, “Okay.” Like, just, like, I don’t remember how he reacted, like, he just - - -

Well, he did ever say anything like, “That would be wrong. I could never accept money from you in those circumstances”?---No. No.

Did you feel like you had to put much effort into persuading him to take the money?---No.

40 Did he agree from the very first conversation you had with him about taking a third of the profit in the venture?---Yeah. Yeah.

Did you say anything along the lines that you didn't think RJS was capable of delivering the job so, so you needed Pilli to keep an eye on the project for RJS's benefit.---I, I don't remember to be honest because it was not really that complicated this one.

Okay.---But, yeah, I don't remember.

10 Well, if it wasn't complicated, did you only need Mr Pilli to ensure the job went to RJS?---I don't, he would have, like, he still would have helped, like, he would have been of some sort of assistance because I wasn't there all the time and he would have just been, you know, like, some sort of assistance.

All right. Well, if we go to volume 1.4, page 303, here you can see what Mr Pilli's done, "Kingswood building works RFT package issue." He's writing an email on 4 June 2019 to Scott Harman. "Hi Scott. Building works package for Kingwood has bene updated and is ready for issue" and it includes RJS, CNH Group, NHR Group, SDL Project Solutions, who that was Seng's company, wasn't it?---Yep.

20 And Constructicon, which is Monty's company, correct?---Yep.

So he's assisting by this stage on 4 June 2019. Do you see that?---Yep.

Tell me this, in your conversations before or around the time that you offered him the one-third of the profits, that's to Mr Pilli, did you ever tell him that - - -

THE COMMISSIONER: I think it was 30%, wasn't it? He said around 30%.

30

MR ENGLISH: Yeah, one-third of the profits, yeah. Did you ever tell him that you had heard people had been speaking badly about him at Transport and Downer?---Oh, not that I can remember. Like, I mean, there was, there was an issue at the beginning of the project. People could have been, like, badmouthing everyone. It was, it got very bad at the beginning. People would have been badmouthing everyone. I know, I know there was, I know senior management were badmouthing me.

40 From Downer or from Transport?---No, I think from Transport with me and then I think - - -

THE COMMISSIONER: Sorry, were they badmouthing you or Mr Pilli?---
Yeah. No, well, at the beginning of the project there was an incident, a big
incident and then pretty much they, anyone onsite got the blame for it.

MR ENGLISH: What was that incident?---At, at the beginning of the
project, like, there was, there was a, there was a, there was a company there.
There, there was a possession, we had a weekend possession and we had to
put up these hoardings, these, like, special hoardings and it had to be done in
that possession. Then the subcontractor that they had to do the job, the,
10 wasn't, like, they didn't wasn't able to do the job and they didn't do the job
and they didn't finish it at the end of the possession and then, and then,
yeah, and then we got told off by everyone.

And which subcontractor or contractor wasn't able to do the job?---Dalski, I
think it was. Dalski, yeah.

Okay. So everyone was being criticised for that failure, what, within
Downer and within Transport?---Yeah. I mean, yeah, it was, like, yeah, it
just, yeah, they just blamed everyone on - that's just normal. Like, they just
20 blame everyone onsite.

And, well, were there anymore specific criticisms about Mr Pilli that you
observed?---Just, just general stuff. Like, general complaints. Like,
nothing, just, look, general complaints, just about the other, both, both
engineers and the project manager, the project manager will complain to me,
like, will have a whinge at me about his project engineers, about his
engineers and then - - -

Did you say to Mr Pilli you were going to protect him and speak in his
30 favour in relation to what you were hearing about him with other staff
members?---No, I didn't say I was going to protect him. I just said, "Oh, if
they" - no. I just, I just, like, like, I, if something was untrue I would, I
would correct it. I would just be, like, "No, well, that's not, that wasn't
true." That was, like, I would just do that.

Well, I guess what I'm asking, did you embark on a plan to win Mr Pilli's
trust before you thought you would invite him in on whatever profits could
be earned through RJS in the project?---No, no.

40 You didn't see him as someone who was particularly vulnerable at Downer
who you might be able to assist, firstly, and then bring in on the project by

way of profit share later on?---No. Because I was helping the, I was helping the site supervisor as, like, even more.

But you were able to get some budget information from Mr Pilli, weren't you?---I think so.

Yeah. This was the value you were delivering, wasn't it, to RJS on the Kingswood project. You were getting information from - first you had Mr Pilli invite three tenderers that you and Mr Nguyen had selected, correct?

10 ---Yep.

And then you got budget information from Mr Pilli to ensure that RJS was the cheapest of all the tenderers, correct?---I, no, I was getting information regarding variations. Like, we'll price it up and he'll tell us what price to put the variation.

But what about before the variations? RJS Infrastructure had to make sure that it was the cheapest. And it seems from two of the - it seems from the document on the screen that at least two of those tenderers may have been
20 legitimate tenderers, correct?---Yep, the, the, the - - -

NHR and C&H.---Yeah.

So to ensure that RJS could beat those tenderers, you would have eagerly wanted to see what the budgets were, correct?---Yep.

And Mr Pilli was there to assist you with that, correct?---Yep.

Because you've already brought him in by 4 June 2019 on this profit share
30 arrangement, correct?---Yeah, I think so, yep.

So you mentioned variations and Mr Pilli's assistance. What did he do there?---Well, he, if we identify a variation or if he, like if he had a variation, he would, we would price it up and then, and then he, and then he would tell us, like, what price to put it.

So he'd look at your draft variation register and then give you advice as to how it could be inflated, is that right?---I'm not, yeah, I'm not sure if it was, he would look at a register. I just think it's, just, just I'll tell him like a
40 figure, I'll tell him the amount and then he'll just say this is where it's got to be.

All right. And you think that was orally, was it, between you and him receiving that advice?---I think the majority of time. I, I, I can't remember, to be honest.

All right. So he was performing the role of Mr Aziz, correct? That Mr Aziz was in relation to Lithgow, Central and Victoria Street?---Yeah.

10 All right. So you ensured that Mr Pilli would come on board, didn't you, so that you could control that aspect of the project from Downer's behalf, correct?---By this stage I don't, like, yeah, by this stage we previously didn't even need anyone's help but, yeah.

All right. If - - -?---Because they had, like the RJS had a really good reputation and, yeah.

If we go to volume 1.5, page 97. You can see here this is payment schedule number 10 on the project, do you see that?---Yep.

20 It shows that the original subcontract was \$388,000, do you see that?---Yep.

And then a further \$435,000 issued by way of variation, do you see that?---Yep.

And it's that amount that Mr Pilli would have assisted with in saying where RJS could land at in relation to variations.---Yeah.

And you can see he's authorised this as well, Mr Pilli, do you see that, on 27/3/2020?---Yep.

30

All right, so that's in relation to variations. Can I ask, was RJS receiving any assistance from Kevin Watters in relation to Kingswood?---I, I don't remember. I don't remember, to be honest.

All right.---I don't, I'm not, yeah, I don't.

Right.---Yeah, I don't think so but - - -

40 If we can go to volume 1.4, page 346, please. This is an email chain bearing the date at the top of 25 June 2019 and the subject, "Building works at Kingswood Station Indigeco submission." Do you remember Indigeco

putting in a submission for the building works?---I, I don't remember. I think, I don't, I think they did.

Do you know who Indigeco were?---Yeah, Indigeco.

Indigeco.---Yeah.

10 What do you know about the company?---They're just, I, I think they were like a labour hire company. Yeah, they're just like a labour hire company and like for, for protection officers and stuff like that, and labour hire.

All right. If we go to page 348, here you can see Indigeco on 25 June attaches a submission for the building works. So that's more than just labour hire, isn't it? That's - - -?---Yeah.

- - - they're trying to project manage that job.---Yeah.

Do you agree?---Yeah.

20 And then there's some discussion. And then if we go back to the first page we were looking on at page 346, Mr Watters says, "Preference at this stage is RJS. They have the most complete submission, have already visited the site twice for walk-throughs and have done some works on NIF previously. In addition their price is most competitive at 388,756, and program is exactly where we want it to be." Do you see that?---Yep.

Were you aware that Mr Watters subsequently provided some assistance at North Strathfield to RJS?---He, he, no. He got RJS to price a job, like a, a small job in North Strathfield.

30 Okay. You can see what he was saying here about RJS on 25 June 2019. Do you know if, if he was, or had you heard whether he was favouring RJS but this time in any particular way?---I don't know. I don't know.

Okay.---I don't know.

40 All right. And then if we can go to page 360, please. We can see here, this is the subcontractor supplier consultant recommendation from Downer. Do you see that? Only in its proposed form by Scott Harman. And you can see there that its subcontract price at 388,000 resulted in a gain of 174,000 to be split with Transport and Downer. Do you see that?---Yeah.

Were you aware of that gain element in relation to this subcontract?---No.

Okay. Now, just coming back to Mr Pilli and payments, how much did you pay him, you personally?---I don't, I don't remember the exact amount. I know he asked for some money at the beginning or something and then I don't remember the exact amount. Maybe 20. I don't know. I don't remember.

10 So you just said a moment ago, "He asked for some money, a small amount." Is that right?---At the beginning, yeah, right at the very beginning.

What did he say he needed that for, if anything?---Oh, I can't remember. I can't remember if he was - I can't remember. I think he was moving houses or something. I can't remember.

And you gave him, was that in the order - how much do you remember that was?---I think that one, I think, like, maybe 5/10,000.

20

And then was there a larger payment made?---Yeah. Yeah. And then - - -

How much was that do you recall?---20. Like, 20 or, or something, or, 20, or - I can't remember.

All right. And was there a subsequent payment after that larger payment? ---What do you mean, like - - -

Was this is cash firstly?---Yeah. These were in cash, yeah.

30

And where did you get the cash from?---Oh, from my own, from what I had from, like, Victoria Street and ASN and stuff.

And so after, there was the first amount and then there was a larger amount of 20 or something. Was there a further payment in cash to Mr Pilli after that one?---I don't, I don't know, I can't remember. Like, maybe. I don't know. There was, there was a transfer. We did a transfer.

40 Well, just focussing on cash. Would you disagree if I said that there was an initial payment of \$5,000 made, followed by a further payment of \$28,000

and then an additional payment of \$5,000 at the end. Would you disagree with that?---No, no, no (not transcribable)

Now, in relation to those three payments did Mr Pilli ever say to you he didn't want any of that money?---No.

Did he ever try and give it back to you?---No.

10 Did you offer that money to him or did he ask for it?---No. I mean, the, the, the first one I remember was he, he asked me - because that's, like, you know, I said to him, I can't remember what I said but I, yeah, the first one he, he said, "Can, can you give me something upfront?" because he was doing something, like - - -

THE COMMISSIONER: What, sorry?---The first payment.

Yeah, what did he want?---He, he wanted, like, at the beginning, like, to, before we even started the project.

20 He wanted it timed earlier?---Yeah. He wanted the - - -

Payment in advance?---Yeah.

MR ENGLISH: And did he ever say, "The money you are giving me is fake"?---I - - -

30 As in fake bills, did he ever suggest that to you?---No. He, no, no, I, not, not that I can remember. I, I, there was maybe a conversation where I said, like, "Check, check it and - do you know how to check it?" Or, "Can you check it?" Like, "Can you check them?" or something like that. Like, that's, yeah, I don't, I don't remember that.

There was an asphaltting and a fencing package that was released to RJS as part of Kingswood, wasn't there?---Yeah.

And that never went out to tender, did they?---No, I don't think so.

40 And that's something Mr Pilli assisted in RJS obtaining, did he, those two packages?---Yeah.

Without going out to tender?---Yep.

Did you ask him to ensure that didn't happen, that it wouldn't go out to tender?---No. I don't, I, I think they were just, they came in as - I don't think they, they, I think they just came in as variations. That's what I thought. I don't remember.

And were you communicating with Mr Pilli by WhatsApp at the time?---
Yeah. I think so. Like, yeah, like - - -

10 And you were passing information to and from about budgets and variations and the like in that mechanism?---Yeah. Like, verbally or like that, yeah.

And eventually a landscaping package came up for Kingswood?---Yep.

And were you adamant to Mr Pilli that he had to provide that to RJS?
---I don't remember but I, I would have told him we can do it, like, we're, we're able to do it.

20 Well, if we go to volume 1.5, page 140, here you can see Mr Pilli has emailed Ms Yip at Downer saying, "Please find attached landscaping package and subcontractors for tender," and it's Ballyhooly, Marble Arch and RJS. Do you see that?---Yeah.

So that was another rigged tender, wasn't it?---Yeah.

Because Mr Nguyen had drafted the quotes on behalf of Ballyhooly and Marble Arch.---Yeah, I, I found that out later on. I didn't know that at the time. But, yeah.

30 Okay. And you knew a landscaper who could do the works for RJS, correct?---Yep.

Just in a similar way that that landscaper would be responsible for all the works and RJS would take a profit on top, correct?---Yep.

And that was a relative of yours, was it?---Yep.

40 All right. And did you receive any kickback from your relative once he was paid - that's Mr Clarke, isn't it - - -?---No.

- - - by Downer for doing the landscaping works?---No.

All right. If we can go to page 147, please. Here you can see the quote of RJS for 59,790 to do those works. Do you see that?---Yeah.

And Tony drafted that quote, did he?---Yep.

And if we go to page 141, you can see here Mr Clarke sends an email to Mr Nguyen on 21 November - so this is slightly, five days before in time - with a quote for the works. And if we go down, you can see the original quote,
10 down two pages, from WHC Landscaping is \$36,436. Do you see that?
---Yep.

And it turned out then, didn't it, that WHC - if we go to page 160 - provided a revised quote, do you see that, on 9 December 2019?---Yep.

And that's an email from Mr Clarke to Mr Nguyen, and you can see that the quote comes down to, on the next page, to \$32,409 inclusive of GST.---Yep.

So how was it you were able to retain a revised reduced quote from WHC
20 Landscaping?---I, I don't really remember. I, yeah, maybe they reduced - I don't remember, to be honest. I, maybe I reduced something to do with the scope, we changed something to do with the scope or I just negotiated down. I don't know.

Well, it meant that, again, there was a hundred per cent pure profit in this for RJS, correct, in the landscaping package?---Yep.

Even after WHC had made a profit on the job, correct?---Yep.

30 And did Mr Pilli supply budget information to you in relation to the landscaping package?---I can't, I can't remember if we just gave him the price and he told us what the price can be.

All right. But he provided some assistance, did he, in relation to that?
---Yeah.

All right. If we go, please, to volume 1.5, page 436. I'm sorry, that should be 406. This is a spreadsheet Mr Cox made. And you can see in relation to Kingswood he's broken it up into the building and the landscaping, do you
40 see that? Do you see?---Where?

On the left-hand side, Kingswood and Kingswood landscaping.---Yep.

So he identifies the profit at contract closure for the building package to be \$510,000 for RJS.---Yep.

Does that sound about right?---Yeah, I guess so.

And in relation to the landscaping, \$19,000 profit at contract closure. Do you see that?---Yep.

10

And he's suggested here that you received \$109,000 by way of profit share from the building package, do you see that?---Yep.

Is that about right?---Don't know exactly. I don't know. But why, this is Aidan's spreadsheet, why - - -

Yeah, I'm just asking if you agree with that amount.---Yeah.

You do? Okay.---Yeah.

20

And he suggests in his spreadsheet that you received \$9,594 profit or thereabouts in relation to the landscaping package at Kingswood. Would you agree with that, that that was your share?---Yeah, would have been my share.

All right. I note the time, Chief Commissioner.

THE COMMISSIONER: We'll just take a break for morning tea. We'll resume in about 20 minutes.

30

SHORT ADJOURNMENT

[11.32am]

THE COMMISSIONER: Yes, all right. We'll resume and, Mr Abdi, you're subject to the same affirmation you took to say the truth. Do you understand?---Yes.

Thank you.

40

MR ENGLISH: Thank you, Chief Commissioner. If volume 1.5, page 165 could be brought on the screen, please? And I'm sorry for jumping back in time a little bit here, Mr Abdi. You will see this is the Downer subcontractor supplier consultant recommendation for the landscaping package.---Yeah.

And you can see RJS's subcontract price of \$59,790 exceeded Downer's budget of \$50,000 resulting in a loss of \$9,790. Do you see that?---Yeah.

10 Were you made aware of that, that you had exceeded the Downer budget for the landscaping works?---No. Not that I can remember.

Mr Pilli didn't tell you that?---No, no, I can't remember.

So your evidence was Mr Pilli just told you where to land at in terms of price, is that right?---Yeah.

And he didn't say anything to you that meant it would result in a loss under the pain/gainshare clause?---No.

20

If we go to the next page, please. You can see here there was a variation issued in relation to the landscaping package for \$9,100.---Yep.

Do you recall what that was in relation to?---To be honest, I can't, to be honest.

You can't?---No, I can't.

30 Did Mr Pilli provide assistance with pricing that as he had done in relation to the building package at Kingswood?---Oh, yeah, I think so.

I just wonder if transcript page 888 can be brought on the screen from the public inquiry. This is some evidence Mr Sanber gave and you might recall I was asking you some questions about how the partnership soured at the end with Mr Sanber. You recall that?---Yep.

Now, Mr Sanber denied having a profit split arrangement with you, Mr Nguyen or Mr Aziz. You don't agree with that, do you?---No.

And then when it came to that time when everyone was trying to work out what happened to the money Mr Sanber gave the evidence that you will see here. Do you understand, Mr Abdi?---Yep.

So if you can see - at the bottom of the page you the question. "So this was at a time that you had supplied your bank statement you thought to Mr Nguyen? Do you see that?" And he says, "Yes". So there was a request for the bank statements to be provided, wasn't there?---Yep.

- 10 If we go over the page, "And you had falsified, I think you said, a number of things in relation to it, being those bank statements. Do you see that?" "Yes".---Yep.

- Were you aware at the time he had falsified information in relation to his bank statements that he supplied bearing the Sanber Group details?---No, I don't, I don't think the - I just remember the, I think somebody just told me that, um, like, I, I couldn't see anything but I, I, I think somebody told me that - I don't know if it was Tony because Tony knew, he reckons that, no, the bank statements weren't true and, and I just didn't really, I was just like,
20 "Oh, well."

And if you look from line 11, he says, "Yeah, detailed information, I didn't want, I didn't want Tony or any of his associates, as I said, I was slightly concerned that he was potentially, there was some threatening conversations that led me to not want to have anyone that I had dealings with on my bank statement or my real bank statements to be available to who I, to Tony or who I was dreaming up, imagining he may have associations with." Do you see that?---Yep.

- 30 Did you ever issue any threats to Mr Sanber about these bank statements?
---No. No, not really. No, not, not that I can remember. Not, it, it, my, most, the majority of my conversation with him was face-to-face, like, in the city just alone and then I just had, and then, yeah, and then - - -

Well, you can go on and you can see at line 35 or so he says again, "I was getting threats." That's Mr Sanber saying he was getting threats for these bank statements.---Yeah.

- 40 And he says slightly higher than that, line 25, that he assumed that RJS, so you, Mr Aziz and Mr Nguyen wanted them to extort money out of him. Is

that what you thought you were trying to do at the time, extort money out of Mr Sanber?---No.

I'm not suggesting you were by the way.---Yeah.

Were you aware of Mr Aziz or Mr Nguyen making any threats to Mr Sanber to get these bank statements?---I don't really know because there was a lot of phone calls and, you know like, I don't, I don't know.

10 Did you have some heated discussions with Mr Sanber in relation to these matters?---I, I wouldn't talk when I - I just wouldn't talk because I just, I was, like, yeah, I, I, because I was confused, like, I was, yeah. I don't know.

Well, did you hear Mr Aziz or Mr Nguyen having any heated discussions with Mr Sanber about these matters?---I can't really, I don't, I don't know. I don't remember.

20 All right. If that can be taken down, please. Now, RJS Infrastructure went on to obtain the package for NIF works at Macdonaldtown. That's right, isn't it?---Yeah.

Is it right you didn't receive any money in relation to those, the profits that were obtained in those works?---No, that's not right.

You did receive some money.---Yeah.

30 Who paid you that money?---Well, like, it was all part of the profits of the company, like a profit from that will, it sat in the company and then at the end that's when we calculated everything, well, that's when Tony calculated everything.

All right. Well, if we go back to Mr Cox's spreadsheet which is at page 406 of volume 1.5. Can we zoom in a bit. One more perhaps, please. Yeah. you can see there North Strathfield and Macdonaldtown. Do you see that? ---Yeah.

N for Nima gets nothing assigned there. Do you understand that?---Yeah.

40 Is that not your understanding that - you're shaking your head there.---No.

So you were of the understanding or the belief that you had received a percentage of the profits in relation to both those jobs, is that right, North Strathfield and Macdonaldtown?---Yeah, all of them.

And how much?---I don't know.

Was it 30%, the usual split, or a third?---I don't know. This is just whatever Tony said. I don't really, I don't know. It should have been, yeah, it should have been like 50% but I don't know.

10

But start with Macdonaldtown. You didn't do anything in relation to that job, correct?---No.

Because Mr Cox got the job through Mr Vardanega, right?---I believe so.

Ben.---Yeah, I believe so.

And he obviously carried out the works in a technical sense. That's right, isn't it?---Yes, I think so, yeah.

20

And then RJS got the works at North Strathfield through Mr Watters, correct?---Yes.

And again, you had no role to play in assisting the obtaining of those works, right?---Yeah.

And the works were carried out under Mr Cox's supervision, correct?---Yeah.

30 So you weren't doing anything there to advance those projects, correct?---Yeah.

But it's your evidence because you were a partner in RJS, you believe you still received a share of that profit?---Yeah.

Were you made aware that Mr Cox had been brought on as a shareholder formerly with ASIC in relation to RJS Infrastructure Group after the Lithgow project?---No.

40 When did you find that out?---I think in the opening statement, I think.

So that was the first time, in this public inquiry you found out that Mr Nguyen had given Mr Cox a formal shareholding in the company, is that right?---Yeah.

Okay. There's this mention of Arcadis. Were you aware that RJS Infrastructure Group was doing some consultancy work for Arcadis, some project investigation work.---Yeah.

10 And that says as well that there was a profit of 237,000 in relation to that work and you didn't receive any of that. Does that correlate with your understanding?---Nah. I, like, I don't know what I, yeah, but I received what he told me the profits were. I don't know about this spreadsheet. I don't know what this is.

When you say he, who are you referring to?---When Tony told me what the, he'll say, "This is what we made," "Oh, okay."

20 And did he tell you, though, that you were receiving a cut for those three jobs, North Strathfield, Macdonaldtown and Arcadis?---Yes, but it's not a cut. It's, the profit goes into the company and then at the end we split it.

All right.---And there's another one, there was another one. There was another station.

What's the other station?---I don't know.

Mount Victoria?---Yes.

30 But that was a job that was obtained just through a normal, regular tender, correct, with no-one on the inside?---I don't know. I don't, I'm not, I'm not sure.

Well, you weren't involved in that tender, correct?---Yeah. Yeah.

So you believed you were getting a cut of the profits from that work as well?---Yeah.

40 And that was work that was carried out by Mr Cox, wasn't it?---Yeah. And Tony.

And Tony, all right. What about in relation to Wollstonecraft? Did you ever receive any money, to your understanding, in relation to Wollstonecraft?---No.

And why was that?---Like, same thing as, he did the same thing as Raja and, and then that's when I thought, you know what? That's it.

When you say the same thing, what do you mean?---Well, he, he - - -

10 And who is he, is that Tony?---Tony, yeah. He became secretive. He, like, I kept asking him for the bank account, the login details, like, for, for weeks and he kept making up excuses and I just, yeah, and then, yeah, I, I can't remember exactly what, what else was happening, but yeah.

All right. Well - - -?---I don't know.

We might put Wollstonecraft to one side and come back to it but just having a look at the money that was paid from RJS Infrastructure and other than those occasions where there was cash paid it was always paid to JTG
20 Services, correct?---Yeah. Yep.

Pursuant to invoice?---Yep.

So if we can go to volume 2.5, page 1, please? So here you can see this is a summary of the bank accounts in the name of JTG Services Pty Ltd and you can see on the right-hand side under the credit banner that the individual amounts that had been received from RJS from the two bank accounts. Do you see that?---Yep.

30 It's a figure of, when you combine those two amounts, is something in the order of \$757,000.---Yep.

And can you can see the Tresca invoices?---Yep.

And so if JTG received \$757,000 it paid to Tresca pursuant to invoices \$344,000. Do you see that?---Yep.

So that leaves a profit figure in the order of \$413,000 for JTG Services from the RJS payments?---Yep.

40

And does that accord with your understanding about that amount of money?---Yep. I think so.

And then if we can go, please, to volume 2.3, page 127. This is one of those tax invoices from JTG Services to RJS. Did you draft these invoices or did Mr Nguyen?---No. Tony did.

So, what, did he tell you how much was payable to JTG Services and once you said okay he'd draft the invoice? Is that what happened?---Yep.

10

So you can see this claim is for \$560,997 inclusive of GST, correct?---Yep.

And where it says "Labour hire and resources services" that's just a false narration, that's correct, isn't it?---Yep.

This is just a means of getting your share out of the business, is that right? ---Yep.

20 Why couldn't you just take it as a director's dividend or shareholder's dividend?---My name wasn't on the company.

Was that your concern, 'cause you weren't formally listed as a - - -?---Well, I don't, I didn't even know that. I didn't even know you could do that. I didn't, I didn't, yeah, I didn't know.

Well, why did you think you needed to create an invoice in the name of JTG Services for false work.---I don't remember, but Tony, like, I can't remember really, well, yeah. I don't know. I don't know how else you - - -

30 Was there any accountant giving advice?---Well, Tony had the accountant. I just talked to Tony, like, had, "How, what do you do?" or, "How, what are we doing?"

All right. If we go to the next page you can see there's another invoice for \$86,967, again labour hire and resource services. That's a false narration, correct?---Yeah.

40 And then again on the next page, an invoice for \$109,534 for consulting system assurance management. Do you see that?---Yeah.

And again, that's a false description of the work allegedly performed, correct?---Yep.

You're nodding. Is that right?---Yeah. Yeah.

Is that right? Yeah. Okay. All right. And then if we go back to volume 2.5, page 1, where you see these Tresca invoices to JTG, again, they're similar, aren't they, that they just included a false narration as a means of getting the money that was owed to Mr Aziz from JTG? Is that right?
10 ---Yeah.

In each occasion?---Yeah.

Okay. Just bear with me one moment. So you can see here there's an entry, it says in the debit section, "Abdi, N and F," and then it says there's a debit of \$207,030. Do you see that?---Yeah.

Now, once can assume that's a payment made to you, or is that someone in your family, N and F Abdi?---I didn't, I didn't do this spreadsheet.
20

Okay. Well, if we go to page 16. Do you see that? That's the withdrawal voucher.---Yeah.

\$207,030.---Yeah.

Whose signature is that?---That's my wife's, should be my wife's.

Should be or is?---As it's - it is, yeah, as a director.

30 All right. So do you recall how this money was taken out of - well, did you accompany her to the bank when this withdrawal voucher was signed?
---Yes.

Okay. And do you recall taking this amount of money out of the bank?
---No, like physically?

Yeah.---No. No.

40 Okay. If we go up to page 15, you can see here there's some data from, it seems from the bank saying the withdrawal amount was 207,000. Do you see on the right-hand side? Do you see?---Where now?

Do you see on the right-hand side it says CDT amount?---Oh, yep.

THE COMMISSIONER: Fourth line, fourth line down.

MR ENGLISH: Thank you, Chief Commissioner. It was 207,000.---Yeah.
Yeah.

10 So the \$30 is probably tacked on top of that by way of some sort of bank
charge, would you agree?---Yep.

And it says, “CDT name Bendigo Bank” and beneficiary is you. Do you see
that?---Yep.

Do you remember getting that money?---Yeah. This would have been
transferred, not, not cash. This is transferred money.

20 So this is transferred money and so this went to you and your wife
obviously knew that because she was there with you at the bank, correct?
---Yep.

And what happened there when you were at the bank on 22 July 2020
having her sign the form for \$207,000 to transfer it into your name? What
was the discussion you had with your wife then?---I don't really remember
but this is all part of the accountant, like, this is all from the accountant. So,
yeah.

30 What, the accountant told you to structure this payment in this manner, did
he or she?---Yeah. Like, they, it, it was like how, it was an accounting
thing. Like - - -

All right. Well, if we look at the accounts then. If we go to volume 2.3,
page 247. So this is the income statement for JTG Services for the year
ending 30 June 2020 and it says that total income was \$246,000 which we
saw in that spreadsheet, around that amount, remember that?---Yep.

And then it's got 313,230 listed as consultancy fees. Do you see that?
---Yep.

40 And remember that 344 amount for Mr Aziz?---Yeah.

So that's probably less the GST, do you agree?---Yep, yep.

So that's Mr Aziz and it's got director's fees of \$100,000 and 100,457. Do you see that?---Yeah.

Who did they go to?---So the, it would have went to my, like, the director, so the business account. So my wife was a director at the time.

10 So your wife received \$100,000 income by way of director's fees, did she, in this financial year?---Yeah, yeah.

And that would have been declared in her taxation statements for the year, correct?---Yeah. The, the accountant did it all.

And where do we find the item for that 207,000 that we saw was paid to you?---What do you mean where do you find it? It should be in the transfers.

20 Yeah, but it's an expense, right, because the money's come out of the - - -?
---No.

Oh, right. Okay. Well, shouldn't it be represented here somewhere?
---That's what I don't, I don't understand. Is there another, is there, there, there should be more.

Yeah. You can see the next page. There's an appropriation statement saying, "The profit before tax for JTG in the year was \$254,000 and the income tax expense was 72,000." Do you see that?---Yeah.

30 And there's some retained earnings of 181,000. Do you see that?---Yeah.

And it says, "Total dividends paid, nothing." Do you see that?---Ah hmm. I, I don't understand this. I don't know. I know the accountant did it all and told me exactly what the tax is and what the figures are.

But you don't deny receiving \$207,000 paid from the JTG account in this financial year, do you?---No.

40 I withdraw that Mr Abdi. It was in the next financial year on 22 July. So it might not be in these accounts.---Oh, okay.

That's the date of the payment. Just make sure that's correct. Yeah, 22/7/2020. So that was in the next year, then. Do you remember how you received that?---Everything just would have been transfers, like - - -

All right. And did you pay tax on that 207,000 personally or did you understand you didn't have to?---I, like, I don't remember, to be honest. I think the accountant, the accountant did everything, so I don't remember what - they just told us, oh, this is what you have to pay and I paid and that was it.

10

When I said that payment shouldn't be in these accounts, it really depends whether your accountant was applying a cash or an accrual accounting method. Do you know what I'm saying by that?---No.

No. Okay. All right. If we go to page 251, this is part of the notes. You can see that there was 371,000 in the bank account. Do you see that there? ---Yeah, yep.

20 As at 30 June 2020. And it identifies down the bottom, under Payables, "dividends 1,500 payable", some provision for income tax and some superannuation payable. Do you know, did JTG Services submit a tax return for 30 June 2021?---Yeah, we were, yeah, yeah, we submitted tax returns, like, would have been, I don't know, yeah.

And does JTG - do you remember your accountant preparing similar accounts as the ones we're looking at now for the financial year ending 2021?---Yeah, I, I, I, I've changed, I've changed the accountant. I don't know when, I don't know when I did it.

30 All right. So you changed Shuriken, did you? You got rid of Shuriken? ---Yeah, yeah.

Do you still have documents like this at home?---It, it would all be on the emails that you have. And they, they, they, I don't know, I don't know.

All right. If we go to page 254, please. You see here a director's signature was required from your wife.---Yeah.

40 Is that something she would have signed?---Yeah, if it's to do with the accountant, yeah.

And did she ever ask any questions about the accounts and where the money came from or anything like that?---No, because she just thought it was more, it's a business, that's it.

All right. And so that \$100,000 in directors' fees that we saw earlier, to your understanding, was that actually paid to your wife into one of her accounts.---Oh, I'm not, I'm not sure. I don't know if it came straight to my account or - I'm not sure.

- 10 All right. And did Shuriken, do you know, did they do the next year's - I might have asked you this - the next year's accounts for JTG?---I don't, I don't know, yeah. Probably, I don't know.

All right. If that can be taken down, please. Now, in relation to Wollstonecraft, you got Mr [REDACTED] on board, correct, to assist RJS Infrastructure Group?---For Wollstonecraft?

For Wollstonecraft, yeah.---No.

- 20 Didn't you ask Mr [REDACTED] to send you or get your budgetary information to assist RJS Infrastructure with its tender for that job?---I, I, no, I got something off him. I've got a document off him but it, like, yeah, I got a document but it wasn't, yeah, anyway, I got a document off him, yeah.

Okay. Okay. What was that document?---It was like a, I think it was like a bill of quantities or something like that.

Was that for Wollstonecraft?---Yeah.

- 30 A Transport bill of quantities?---I think so, yeah.

And how was it that you got that document from him?---I, I don't really, I don't remember. I don't know if he emailed it to me or, or he, or he just gave me, gave me a hard copy. I don't remember.

All right. How did you meet Mr [REDACTED]?---At work. I think we, well, he started on Wynyard Station and I was on Wynyard Walk.

- 40 All right. And did you work in an office together with him at some stage?
---Yeah, at some stage, yeah.

Where was that?---In Chatswood.

And what was it that you talked about with Mr [REDACTED] from time to time when you two were working together?---Just, well, I don't remember what at the beginning but then we, like, employment, just, just whinging about people at work and just stuff like that.

Was he someone else who had said to you he wanted to find a new job or couldn't understand why he wasn't being promoted or anything like that?
10 ---No, well, like, he, we were both looking for work at some stage.

Do you mean new jobs when you - - -?---Yeah, new jobs.

Yeah.---And then, yeah, and then we were, yeah, we just both were looking for work and then I think it was just, he was just getting angry, like, he was just getting frustrated because like he wasn't, we were both angry like, like, land anything.

Okay. And did you help him with references, drafting some references for himself?---Yes, I think so.
20

And at some stage you learnt that he was project manager for Transport at Wollstonecraft?---Yes.

Right. And did you tell him at some stage that you were involved with RJS?---I don't, I don't remember. I don't remember that. I don't remember. I don't know if, yeah, I don't remember. I don't remember if I said it to him or, I don't know. I don't know when I, I don't even know if I said it to him.
30

Well, at some stage you've said that Mr [REDACTED] gave you the bill of quantities.---Yeah.

And you knew that was a confidential document, didn't you?---Yeah.

And so you were asking him to provide you with a confidential document from Transport. Why did you do that?---That, that, so I can send it to Tony.

Okay. Why couldn't you get it yourself seeing as you were working at Transport?---I, I don't know if it was, if I didn't know where it was, like, or
40

the access or, yeah, I don't know. Like, yeah, I don't remember to be honest. Yeah, I don't remember.

Well, did Mr [REDACTED] ever tell you you can find it on the hard drive?---I don't remember.

Well, so you asked Mr [REDACTED]. Did he ever say, "Find it yourself. I don't want to", you know, "You can do it yourself. Why do I have to get it for you?" Anything like that?---I don't, I don't really, I don't remember
10 that. I don't remember having that conversation.

Well, did you see Mr [REDACTED] as someone vulnerable that you could exploit at Transport?---No.

Are you sure about that?---Yes.

Did you ever have a discussion with Mr [REDACTED] about trying to install Mr Aziz as the project manager for Wollstonecraft?---I'm not, I'm not sure. I don't know, I don't think I spoke to, I don't think it was, I, I don't think I
20 spoke to [REDACTED] about that. I think I just spoke to Abdal directly.

What, you said to Abdal something, "You should try and apply to be the project manager at Wollstonecraft", did you?---I, I don't remember. I don't remember the conversation. I don't know if he was, he was running out of work or he was, his, his contract was coming to an end or something and, and I said, "Look, there's all these", like, you know - yeah. I don't remember exactly.

If we go to volume 4.1, page 241. Here you can see this is an email on 6
30 December 2019 where Mr [REDACTED] has sent the RFI for Wollstonecraft. Do you see that?---Yeah.

And he forwards it to his Hotmail address, do you see that, the same day?
---Yeah.

Do you remember him sending you that document or showing you that document, the RFI for Wollstonecraft?---No. No, no, not really.

Can you positively deny it or you just don't have a recollection?---Well,
40 yeah, no, I, I don't think so. It's, it's, it's an REF, yeah.

If we go, please, to page 257. Do you remember Mr [REDACTED] sending you this email. It's about Andrew Gayed, AG, do you see that?---Yep.

“He is not even a fuckin’ engineer.” Do you see that?---Oh, yep, yep.

On the 30 April 2020 and if we go to the page below you can - sorry, one page below, page 258 - you can see there the key personnel and the details for Mr Gayed. Do you see that?---Yep.

10 Do you remember Mr [REDACTED] sending you that?---I don't, I don't really, I don't remember but, yeah, I don't remember.

Well, he couldn't have sent you that out of the blue just saying, “He's not even a fuckin’ engineer,” could he?---No, no.

So you must have been having a discussion with him about who the project manager within Downer was for Wollstonecraft, correct?---Yeah.

20 And did Mr [REDACTED] say to you that he was taking steps to have Mr Gayed removed or not appointed as the project manager for that site?---I, I don't remember but I remember he, I remember he was asking me and he was just panicking, yeah, and then, yeah, I think he spoke to his management.

Sorry, spoke to, you think that Mr [REDACTED] spoke to his management about Mr Gayed?---Yeah, yeah.

30 What did he tell you he was panicking about in relation to Mr Gayed?
---Well, I didn't, I didn't given them a good reference and then, yeah, I don't know what else happened but then, yeah, he just went into a panic mode.

Panicking about what?---Well, that he wanted someone, like, he was, he, he, he wanted someone really, really good for the, for the station because I think at the time he wasn't actually a project manager, he was only an acting and then I think that's, that's, yeah, just, he just - yeah.

All right. And - - -?---He was just complaining.

40 Did you know Mr Gayed to have had a past relationship with Mr Vardanega?---Well, not, not, not, like, I - they were working together. Ben was working with him or for him on one of the stations.

Which station was that?---Hazelbrook or, or - - -

Was it Glenbrook?---Glenbrook, yeah.

And what did you understand about - well, you said he was working, Ben was working for him. What did you understand about that relationship?
---I didn't really pay too much attention to it but it - I, I don't, I don't really, you know what I mean, like there were, like, I think Ben was working for
10 Downer and then - yeah. That's, like - - -

All right.---Yeah.

And did you know whether Mr Gayed was, had associations with other, with tenderers for Wollstonecraft?---Yeah, I thought, yeah, like through, through - I don't know how I found out. Like, I just, like everyone talking on sites and stuff, or maybe Sairam when he was telling me. But, yeah, I think he was telling me he's the, he was the, like associated with someone.

20 Who was that someone?---It was Maize.

Yeah, Maize Group, was it?---Maize Construction I think.

Yeah, and what was the association you heard between Mr Gayed and Maize?---I don't know. I just thought they just one time someone - I don't know. I just heard he, he knows someone, he knows the director, or the other time I heard it's, it's, like, it's some family, it's somebody's, it's his family, and the other time I heard it was like just - I don't know. I just heard just whatever on the site, so I don't know.

30

And did that surprise you to hear that about Mr Gayed?---Yeah, but, like, I didn't really pay attention to it.

Did you hear about any other people from Downer at the site being, at the time being linked to other contracting companies?---Yeah, I mean, just like, like I just heard, like - I don't even know. Like, oh, well, Sairam will say something about Vlad and Dalski but, like I mean, yeah, just Vlad and Dalski and - - -

What did Sairam tell you about Vlad and Dalski?---That, I can't remember exactly what, like he was working for them or, or he knows the owner or something like that. But, yeah, I don't know.

All right. Did you hear anything further about Mr Vardanega and Mr Gayed?---Not really. I mean, like, I, I would hear things like - I heard them, like, I wasn't, not sure, I don't know who, I don't know how I heard or whatever. I heard them doing a job together or something on a, on a station.

10 A job together on a station?---Yeah.

Which station was that?---Oh, I don't remember. It was one of the - I don't remember. There was - yeah, I don't remember.

All right. So just go back to this message, "He's not even a fucking engineer," on 30 April 2020. That's around the same time that you were having discussions with Mr Aziz, wasn't it, to have him replaced or placed into the project manager role within Downer for Wollstonecraft, correct?
---Yes, I think so.

20

Yeah, and you wanted someone in there that you could control to ensure the work was awarded to RJS, someone from Downer, didn't you?---No, not, not at that stage.

Well, you wanted RJS to get one or more packages at Wollstonecraft, correct?---Not really.

Well, at the start you did, didn't you?---Even, even at the start I didn't. Like, even, I mean, yeah, I don't know. It's just - - -

30

Well - - -?---Yeah.

What made you change in relation to Wollstonecraft that you were losing enthusiasm for RJS to win work?---Because, well, the same thing, like I said, the same thing as Raja. Like, the same thing, like, you know, like, and I just went, you know what, like, I mean, the same thing with Raja and then, yeah, and then him and Aidan were, like, like, well, I just didn't, yeah, just didn't believe what he was saying anymore and he wouldn't - - -

40 Were you getting upset that Mr Nguyen - - -?---And I pushed him, actually, I remember I pushed him to put me, to put my name on the company, and I

remember, like, yeah, I said, "Speak to the accountant. Put my name in," like, you know, "I'll resign and just put my name on the company, that's it." We'll, and then he just made up excuses for that one as well and then I, at some stage I asked him to send me the, the corporate key.

For ASIC.---For ASIC.

10 Yeah.---So I can, I said, "I'll just," 'cause he kept saying, "Oh, I'm busy," something like that, or the accountant was busy or something like that. And then I said, "Send it. I'll just do it online. I can do it online." And then there were, like, well, I don't know but I'm just now assuming that it was probably a fake ASIC's key or whatever you call it.

Didn't you check yourself?---No. I, I went to use it and it would decline.

Oh, okay. So you were getting concerned that you were being deceived by Mr Nguyen in relation to RJS's business, were you?---Yeah.

20 All right. Well, we might listen to some telephone calls, then, see how you were conversing with Mr Nguyen at the time.---Yeah.

There's a telephone call from 4 May 2020, volume 21.1, telephone call 1.1. I hand up Chief Commissioner a copy.

THE COMMISSIONER: Are you tendering this?

MR ENGLISH: Yes, please, I tender that.

30 THE COMMISSIONER: That will be exhibit 167.

**#EXH-167 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION INTERCEPT SESSION 0365 FROM
TONY NGUYEN TO NIMA ABDI ON 4 MAY 2020**

40 MR ENGLISH: And it's session number 00365 on 4/5/2020 at 17.27.18 and it's a call between Mr Nguyen and Mr Abdi. If that could be brought on the screen and played, please.

MR ENGLISH: All right, Mr Abdi. So on page 1, if that can be brought up, you're talking about - or you're questioning Mr Nguyen about whether he submitted the tender, and he says, "No, not yet, no." What tender was this for?---I wasn't too sure but - I, I wasn't too sure about the conversation but maybe for Hornsby, Hornsby Station.

10 All right. And was Abdal Aziz, he was the - was he the project manager for that?---I think so, yeah.

And you're giving instructions to Mr Nguyen as to how he should speak to someone. Who's that other person that you're referring to?---I think, I'm pretty sure it's Aidan.

All right. So - - -?---'Cause at that time, like, Aidan was pricing the job.

20 So Aidan's pricing the job for Hornsby and you're giving instructions to Mr Nguyen as to what he should say to Aidan in relation to that tender. Is that right?---Yeah.

And do you say you're not really interested at this point in RJS obtaining tenders?---It's, it's confusing because, like, like, I had to like, like, we, we didn't have a, like, it wasn't like Raja where we had a falling out. We didn't have a falling out and I, and I, and I made it out that I'm still on board with him. I had to make it out that I'm still on board because there was still like, you know, money that was owing. So it's just, yeah.

30 Well, it's not that there was money that was owing, it was that there might be more money in the pipeline. Isn't that what you're interested in?---With Hornsby, Hornsby was, it started that way and then it ended with just I, I just said, "Nah."

But there was Wollstonecraft too that could have been in the pipeline, correct?---No, but Wollstonecraft, no, Wollstonecraft was, like, I mean, yeah.

40 Banksia was a potential station you were targeting at the time, correct?
---They were, like, RJS was but, yeah, see - - -

Are you sure about that? Are you sure you weren't working with Mr Pilli to, to try and get that package to RJS?---It's, no. Like, I mean, I don't know, yeah, I don't know how to explain it, but, yeah.

All right. If we go to page 5, middle of the page, you say, "Hornsby had a lot of variations in it. Abdal had a lot of variations tucked away through it." Are you sure this is about Hornsby? It seems like - - -?---Yeah, I'm not sure now. I don't know. I'm not sure, like - - -

10 Okay.---Because that was it. Like, I don't think, I don't, I don't know what else it could have been.

All right. And you say, Nguyen says, down towards the bottom of the page, "This is probably a good one for him to knock back." That's Abdal, to knock back, is that right?---Yeah. Yep.

And it seems like there's a recognition between you all that people might become suspicious if Abdal awards too much work to RJS. Is that right?---Yeah.

20

Okay. And over the page on page 6, you can see you say, "Because, because there's too much. RJS is everything, yeah." And then Nguyen says he had to knock something back. Do you see that?---Yeah.

And then you say, it goes down, you say, "And then, and then it's, so it's clear and it's evident, then he's going to pump the shit out JTG, like, for 240K." What were you intending to convey by that?---Yeah. I don't know. I don't, I don't remember.

30 All right. And then on page 9 you say to Mr Nguyen, starting perhaps on the bottom of page 8, "No. No. I know but just did drill him. Say, man, we can't do this. Like, you can't price jobs like this. We're not going to get anything, and Lithgow was a one-off thing. That was it. It's not going to be cooked anymore." Do you see that?---Yeah.

What was cooked so much in Lithgow?---I don't, I mean more so the, the variations. I - - -

40 This is about quoting for the job you're talking about here.---Yeah, I don't know. Like, the tender to a certain point, but, yeah, I don't know.

Aren't you giving instructions to Mr Nguyen as to what he should say to Mr Cox in relation to a tender for an upcoming package and telling him, "You can't cook it as much as you cooked the Lithgow tender." Is that fair?---No. Like, but I think at this point I'm just trying to, like, subtly tell Tony, like, you know like, Aidan's just, you know like, just finding faults in Aidan and, like you know, he's overpricing and this, and this and that.

But you're saying here, you're acknowledging that Lithgow was cooked, correct?---Yeah.

10

And Mr Nguyen's agreeing with you.---Yeah.

So can you tell the Commissioner in what respect was it cooked?---Well, that's what I, I, that's what I just said before. Like, in terms of the variations, like, the, the tender maybe to a certain point. I don't really recall because we had to - yeah. I don't know.

20

And just before the break, Kingswood was cooked too, wasn't it, the building package?---It's, yeah, like, yeah, the, more for the variations, not really, like, the tender, well, the tender, I don't, no, I don't, not, I don't think the tender would have been, like, the tender couldn't have been.

Well, did you tell Mr Nguyen that RJS could increase its tender quote by 100,000?---Yes.

Well, that's cooking the quote, isn't it?---Yeah. I don't remember why that was. I don't remember.

30

Is that a convenient time, Chief Commissioner?

THE COMMISSIONER: Yes. We'll take a break for lunch and come back at 2.00pm

LUNCHEON ADJOURNMENT

[1.02pm]