

HECTORPUB00188
21/03/2023

HECTOR
pp 00188-00240

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE JOHN HATZISTERGOS AM
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION HECTOR

Reference: Operation E19/1595

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 21 MARCH, 2023

AT 2.00PM

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

THE COMMISSIONER: We'll resume, Mr Nguyen. You're subject to the same oath.---Yes, I understand.

Do you understand?---I understand.

Thank you. Yes.

10

MS DAVIDSON: Mr Nguyen, just before we move on from ASN Contractors I think you've given an answer earlier in the day in response to a question from the Chief Commissioner in relation to where you got ideas from about the dummy bidding. Do you recall that?---Yes, I recall that.

So just to be clear in relation to the ASN Contractors situation in respect of the Glenfield car park rectification works, was that a circumstance in which Mr Abdi effectively had control of the bidding or tendering process?---I would assume so. He's, he would have control of who he nominated or
20 picked to go out to tender.

Yes. And similarly it was a process that involved the use of, or the company ASN involved the use of aliases on behalf of those who were involved in it to disguise their involvement and conflict of interest.---Yes, that's correct.

And similarly it involved or the process of bidding according to your evidence involved prices being inflated by reference to coming close to approval thresholds in relation to what could be approved by Mr Abdi.
30 ---That's correct.

And similarly it involved the use of, I think you gave evidence in respect of approvals being - well, profits being extracted in cash subsequent to that.
---That's correct.

So is it true to say that that affected, all of those elements provided elements that you adopted subsequently in relation to your Inner West Council work?---Yes, that would be, yes, that would be right because it's a similar process of what I've undertaken. It's just - - -
40

And in the Inner West Council situation it wasn't Mr Abdi that was in control it was you that was in control.---Exactly. It was me. That's right. That's right.

And so would it be fair to say that the ASN Contractors situation in respect of the Glenfield car park rectification works effectively provided you with a model that you later adopted - - -?---And - - -

10 - - - when you were at Inner West Council and in a position to yourself be the approver?---Yes, that's correct.

And - - -?---So that's why I said before that, yeah, now coming to think of it there's a link so that, it was like I guess the back of my mind it's done before.

So where you say it was in the back of your mind, do you recall whether it was that model, those elements that I've just taken you to were in the back of your mind - - -?---No, just I didn't put - - -

20 - - - at the time?---Yeah. I didn't put two and two together until now so, do you know what I mean? Like, so when, when the Commissioner asked where did you, how did you come up with the plan and so I guess 'cause I done it before but without knowing that I did it before. Without linking those two together.

So it provided you with the inspiration but that was subconscious at the time. Is that - - -?---That's correct, yes.

30 - - - an accurate summary?---That, that's a, that's the summary.

All right. You didn't pursue any other projects as part of ASN or the ASN Contractors business?---No, we ceased the business.

Do you recall why that was?---I was going to say I genuinely don't remember why we ceased the business.

Because you did continue to partner with Mr Abdi and Mr Sanber in the RJS Civil business.---That's right, the Sanber Group. That's correct.

40 Yep. So the Sanber Group was incorporated in October 2015 and I think you said you had an interest - - -

MALE SPEAKER: Yeah (not transcribable) yeah, please - - -

MALE SPEAKER: That's Webex.

MALE SPEAKER: Sorry.

MS DAVIDSON: Do I proceed, Chief Commissioner? The Sanber Group
was incorporated in October 2015. Did you have an interest in that
10 company?---When you say "interest" as in was I, was I the shareholder or - -
-

Were you a shareholder?---No, I wasn't a shareholder. It was just Raj and
Raj and himself.

Would you agree that you were effectively a silent partner in that
company?---Unofficially, a silent partner, yes.

Unofficially, a silent partner?---Yeah, yeah, yeah, if that - - -
20

That is, when you say "unofficially" you didn't hold any shares in the
company?---Exactly. Just, yeah. So on, on, I guess you can say on paper,
my name's not linked to it.

Yes. And what role did Mr Abdi have in relation to that company? Was he
also unofficial silent partner, to use your term?---Yes, same as, same
position I, I was.

Right. And what role did Mr Abdi have at that time, that is, what was his
30 job at that time, not in relation to the Sanber Group but - - -?---As, he,
obviously, he was still working for Transport. I think he was still, might, he
might have got promoted to a project manager or, so the, the title I didn't
really take notice of when he got promoted and so on, so, well, yes, he was
still working for Transport - - -

All right. But was he the project manager in relation to the Victoria Street
Station?---I don't, I don't think so, in terms, I'm not too sure.

All right. What was you - - -?---At that, yeah.
40

What was your role in relation to the Victoria Street Station project?---Just, so my role was, I guess admin purposes, so just doing I guess the safe work method statements, you know finding methodologies, and mainly a, I guess, point of contact between SDL and Sanber Group, like, if anything goes wrong, then Raja will come to me, “SDL’s not doing this. What’s going on?”

All right. So was the Victoria Street Station a project on which the Sanber Group was engaged?---Yes. By Downer.

10

By Downer. So was that a Transport project that that related to?---Yes, that was a TAP project.

It was a TAP project. So this was the first of the TAP projects that you became involved in?---Yes.

And what was SDL engaged to do?---The building works, so just the building works that was tendered for.

20 Right. And were SDL engaged to do that directly or were they subcontracted to the Sanber Group?---Subcontracted to the Sanber Group.

Right. If we might bring up, Chief Commissioner, we didn’t mark for identification the opening slides yesterday but perhaps if they could be marked now as MFI 10? And if I could have - - -

THE COMMISSIONER: MFI 10.

30 **#MFI-010 – OPENING SLIDES**

MS DAVIDSON: - - - the Victoria Street slide brought up? I’m not sure if there’s a printed copy, Chief Commissioner, but I can ensure that that’s provided to you.

THE COMMISSIONER: I have a copy here.

40 MS DAVIDSON: So you’ll see from this slide, which was something that was shown during the opening address yesterday, Mr Aziz as the project manager, from Downer’s perspective?---That’s correct.

And the Sanber Group subcontracting to SDL the building works. That's effectively the arrangement that you've just indicated existed?---Yes.

And I think you said that you acted, did you say, as a contact point between the Sanber Group and SDL?---Not acted fully but acted if there's an issue, as in usually Raja would contact or obviously stay in contact with Seng or with SDL but if there's an issue that can't be resolved or, or Raja was getting frustrated, then I would step in.

10

And were you aware of how it was that SDL came to be the subcontractor for that project?---Yeah, through myself.

Through yourself?---Yes.

So you arranged that to occur?---That, that, that's correct.

Did you play a role in relation to Sanber Group securing that project?---No, so I didn't, yeah, so, so I had no involvement with, I guess, how Sanber Group got the job.

20

Right. Did you know how Sanber Group got the job?---I just assumed Nima or I, I assumed it was through Nima and Abdal, like, the, like, there was people there that had association with each other.

So you assumed that there was some arrangement or agreement between Mr Aziz and Mr Abdi to get the Sanber Group the work?---Yes. Exactly, yes.

Did anybody ever say that to you?---Say, when you say "say", as in - - -

30

Well, did they tell you that? I think your answer was you assumed it.---Oh, yeah. So, yeah, so, so it was mentioned, yeah. So they would mention it and say, "Nima would know Abdal, they're mates" and then, yeah, Abdal would say, "Get someone onboard that we know." Then hence Sanber Group came onboard.

And did you understand that the process in relation to selecting Sanber Group had been manipulated by either Mr Aziz or Mr Abdi?---Yes.

And in what way was that did you understand?---Oh, that, I don't know what way because I don't know the process or procedures within that corporation, or that entity, so - - -

In relation to Victoria Street you didn't know the process?---Exactly, yeah. So my, my, I guess my role was to bring in a builder and, and get them to price the work there.

10 All right. Was that because Sanber Group wasn't a builder?---That's correct.

What did Sanber Group do at the time that it was incorporated?---Just managed SDL.

So it was a company that didn't have any employees?---That's correct.

And the only people who were involved in it were Mr Sanber, as the director, and the two of you as silent partners, that is you and Mr Abdi? ---Just, that's correct.

20

THE COMMISSIONER: Can I just ask a question at this stage? How soon prior to this had you come into contact with Mr Aziz?---How soon?

Ah hmm.---I, I met him on the job, I think. We were all down, we were all down there, down at Maitland, just scoping out and - - -

Which job is this?---This is the Maitland job. Oh, Victoria Street, sorry, yeah, so Victoria Street.

30 So you didn't know - - -

MS DAVIDSON: To be clear, Victoria Street is in Maitland.---Yeah. So Victoria Street is Maitland, yes.

THE COMMISSIONER: So this was the first time you had met Mr Aziz? ---That's correct.

And how were you introduced to him?---So, through, through Nima Abdi.

40 And was he working at that stage for Downer?---Nima Abdi was working for Transport.

No, no, Mr Aziz.---Oh, yes. So he was onsite. So the site was established, project started.

Okay, all right. Thank you.

MS DAVIDSON: You'd indicated that you were involved, or your work involved admin roles or admin functions, and that included completing some safety documentation.---That's correct. And, and inductions and stuff like that.

What was the safety documentation and inductions that you completed, do you remember?---Oh, oh, as in, just like the SWMS to do the job. So each task needs the safe work method statement.

So you were preparing those statements?---Exactly. So then Raja would send it to Downer to get it approved and then the work can start.

So this was something that Downer had to - - -?---Approve.

- - - see the document that had been prepared on behalf of Sanber Group? ---Yes, that's correct.

And approve them before the job could get started?---That's right. Before the task can get started, yeah.

And what about inductions, was that a document that workers on the site were required to complete?---That's correct. So I would have done all the online inductions.

So when you say you did them, does that mean you completed them on behalf of workers?---Of workers, that's correct.

So instead of the worker checking, or going through the safety induction process, you would in fact do it?---That's correct.

And did you use aliases in order to do that or did you just use the names of the workers?---I think I just used the names of the workers. I just, I think it's just back then what I would request was their driver's licence and then I would just ask on their, their behalf.

Did the workers know that you were doing that?---Yes, yes, they did, because they didn't want to sit through it. No-one wants to sit through the induction.

So am I accurate in understanding that it enabled the workers to skip the safety training that they were supposed to do on the site because you would do it for them?---That's correct.

10 Were they given any other form of safety training on the site?---No. Just the, I guess the pre stuff, the normal onsite, yeah, pre-start.

Did you use an alias in relation to preparing the safe work method statements?---I probably did. I, I don't think I would use my own name.

Do you recall what it was?---Oh, oh, it's too far back. I can't, I don't necessarily want to - - -

20 Does George Vella sound familiar?---Not really. Yeah, oh, George - I don't know who, yeah, I don't, I don't, doesn't ring a bell.

Would you agree that the safe work method statements that were prepared by RJS Civil, whoever's name was on them, were in fact prepared by you? ---Yes. So I might have just picked some random name or something.

So that included in relation to, for example in relation to waterproofing or carpentry.---Carpentry, yes, and painting.

Bricklaying, painting.---Yeah.

30 HVAC.---That's, that's correct, yes. So that's, that's all done, done by, through myself.

Had you had discussions with Mr Sanber and Mr Abdi at the time you first became involved in the Victoria Street project in relation to whether you'd be paid for your work, how the profit would be split?---There was some, yeah, so that it would be a split with - I can't recall that the split would be 50% to Abdal Aziz and then the rest, the 50, would go to us three and then we split into three again.

40 All right, so is that - - -?---So that's - - -

The way it's depicted on the slide accurate from your - - -?---Yes, that's - - -
- - - understanding?---That's from my understanding, yes.

That 50% went to Mr Aziz - - -?---And then the 50% gets split three ways.

Right. Can we go to volume 18.7, page 302. Go to the top of the page.
Sorry, the top of page 302. This is 301, sorry. So this is a WhatsApp
message in April 2018 between yourself and Mr Abdi.---Yes.

10

You ask a question, "How you go with shitface?"---So that, I think - - -

Do you know who that's referring to?---So that's Raja.

All right.---At the time that's when we're starting to get a bit, skating on
thin ice.

Okay. So this is, by this point the relationship was starting to deteriorate, is
that right?---That's correct, yes.

20

Yep. And then you ask about should you return his call. If we can keep
scrolling to page 303. He said, Mr Abdi says to you he wants to discuss
"farm split with you and Hairy tomorrow. I want to go have dinner and piss
off to bed. I don't have time to argue. Let's deal with him now. But if you
speak to him before I do, then insist on him showing laptop login and we
can look on-screen as this is what you did with Seng." Now, taking that in
parts, wants to discuss "farm split with you and Hairy tomorrow". Do you
know who Hairy is?---So Hairy, Hairy, so, I don't know, that sounds like
it's Abdal. Abdal, yes, so Abdal, sorry. Abdal or Nima, so that's from
30 Abdal. So Hairy is Nima.

Hairy is Nima?---Yes. That's the nickname Abdal will call Nima.

So in your messages here - - -?---So these, so, sorry, so in the messages
that's from myself to Abdal, not to Nima. I put Nima at the back saying that
it's Nima's friend Abdal.

All right. So do you recognise that to be - - -?---Abdal.

40

- - - Mr Aziz's, discussion that you're having with Mr Aziz?---Yes, that's
correct, yes.

Right. Is there a reason for you to have been having a discussion of this kind in relation to looking at or arguing SDL with Mr Aziz?---Because I remember something along these lines that Raja said the contract cost for SDL was a 100 grand dearer than what it was originally. So then I went back to SDL saying, “What is your contract with Sanber Group?” and it was tend to be a 100 grand dearer. So it was somehow sneaking in, increasing the margin for himself.

10 So you understood that this was something that Mr Sanber was engaged in in order to - did you understand this was something Mr Sanber was engaged in to try to keep money for himself - - -?---That’s correct.

- - - and not give it to yourself - - -?---That’s right.

- - - and Mr Abdi?---Abdi and Nima so - - -

Sorry, Nima Abdi.---So, yeah. Yeah, sorry. Yeah, that’s correct, yes.

20 All right. So continuing in the discussion, we can scroll down. If we can keep going through to page 305. So you said that you’ve been told to wait by hairy face, that is not to talk to dirt bag.---Dirt bag was friends with Raja.

That’s another reference to Mr Sanber.---Yeah.

If we can keep going on to 306. And then you’re seeing him. Do you recall having a discussion with Mr Sanber in relation to this topic?---Do you mind if you scroll up. I want to see what’s the last, I don’t - - -

30 Yeah, certainly.---Yeah, I don’t know what - - -

We started on page 302.---Okay. I can’t recall what was the purpose for me seeing him.

All right. So if we can go then to page 307. You’re then as part of this chat provided with or you provide a photograph of a sheet, of a spreadsheet. Is that a document that you recognise there referring to “SDL contract value from Raja’s Excel sheet” you see on the third row there?---Yes.

40 And there’s a reference in the line underneath to “SDL total contract value as per Monty’s progress claim” just above the - - -?---Yes, I see that, yes.

- - - yellow highlighted line and the difference being 160,000 and 145,000 if you take away the GST I assume.---Yes. I think we've gone with GST and one without GST.

Do you know who prepared this document?---I think I prepared this.

You think you prepared it.---Yeah, it looks familiar. It's just, yeah, I think this is, this is how I caught Raja out.

10

Right. So when you say caught him out, it's that different figure - - -?
---That different - exactly, yeah.

Right. So what Raja had said in his Excel sheet was the higher figure that appears in the SDL contract value but what you understood the total contract value to be was that SDL total contract value line. Is that - - -?
---That's correct, yeah.

- - - what I understand correctly?---Yes, yes.

20

All right.---Yeah, I, I, this is my, I concur I prepared this.

Right.---Hence if you see the bottom from Raja's spreadsheet so I would input his figures and overshadow what's the actual figure.

30

Okay. And then down the bottom you see cost, or sorry, in the second-half of the document there appear to be costs documented, bricklayer, a builder and then various business costs, and there's a difference recorded. Those costs on the left-hand column \$177,000 and according to Raja's spreadsheet \$161,000 leading you to the conclusion that there was \$6,465 - - -?---Has gone missing.

- - - missing from Raja's spreadsheet.---Yes.

What did you understand those missing costs to relate to?---Oh, the total didn't add up.

40

I'm sorry, the total didn't add up?---Yeah. I think he entered it as a calculation error or he missed something or deleted something or added something extra so - - -

All right. So was this a document that you were using in order to I think you said catch out Mr Sanber? Was it also a document that you were using to calculate profit split?---So the idea was to, yeah, use it more for profit split but also it'd catch Raja out.

And so it is a document that you recall showing to Mr Sanber?---I think I showed it to everyone. I think I, I think I - - -

10 Sorry, you think you showed it to everyone?---Yeah. I'm pretty sure I emailed everyone, like - - -

If we go to page 312 in the same volume. So this is another document in relation to the profit split, effectively. Does this one look familiar to you? ---It does. I think that's - sort of.

In any event, that again reflects a one-third share being paid to - well, down the bottom there you see Raj, T and N.---TN, Yes.

20 Is that yourself and Mr Abdi as the T and N?---So T would be myself and the N would be Mr Abdi.

Yes, right.---And the partner share would be Abdal.

So, the profit that you made individually in relation to that, at least according to this spreadsheet, was \$128,000?---That's correct.

30 To your recollection is that in fact an accurate depiction of about the amount of money that you made in profit out of the Victoria Street job?---I, I think so. I think so. It's just, if it's, I think this was my spreadsheet for some - - -

Do you recall how that money was paid?---How, I'm just thinking how it was paid. I don't even, it's - do you have the date of this spreadsheet, if you don't mind me asking for?

40 If we scroll the page above you'll see the context of the chat in which it was distributed. There appears to be a number of screenshots of bank statements that precede it and then there's a sales transaction sheet. If we keep scrolling up, that's a tax invoice from Downer and then we have - - -?---Oh, then my spreadsheet.

Yeah. So these are the attachments to the messages that precede it in April 2018.---I think we, I think it was, it had to have been cash.

I'm sorry?---It would have to be in cash.

It had to have been in cash?---Yeah, yeah.

For the same reasons as you previously described?---For - exactly, yeah. I, I can't remember how because it's a big sum but it had to be.

10

You subsequently had a falling out around this time - was it around this time you were having your falling out with Sanber?---That's correct. That's correct.

And in addition to the one hundred - well, you discovered the discrepancy that you referred to. Did you confront him in relation to that?---Oh, yeah, we did.

20 And what occurred then?---Yeah. Then he started being defensive and then this is when we said, "Show us the statement" and hence the, you see the, the copy of his statement attached.

Were you also concerned in relation to other payments that were showing as having been made to Mr Sanber?---Yes.

And do you recall what that was about?---I'm remember when I saw the statement and I saw - I can't remember what company. There was, I saw a, an income or a, a payment from a rail, a rail company. What are they called?

30

RPS?---RPS. RPS.

So who was RPS?---So RPS are Rail Planning Services.

Sorry, Rail Planning Services?---Rail, yeah, Rail Planning Services.

Yeah. And what role did they play in relation to Victoria Street?---Nothing.

40 Nothing?---So, nothing, so I assumed, this is, my assumption is that he was getting kickbacks from RPS.

So taking a step back, RPS was a real company?---A real company, yes. It was a real company, yes.

And you knew whose company that was?---I think back then it was, we, I think we used to refer - this was back in Glenfield Junction Alliance. I think that's when RPS started.

Right.---Yeah. So - - -

10 And had they worked with you in relation to Victoria Street at all?---No, I don't know anything about them. I just heard of them back in the days when I was working at Glenfield.

You'd heard of them?---Yeah, exactly.

And do you know what they did? Do you know what the type of company it was, Rail Planning Services?---Oh, just a, I assume it's just a consultancy.

Right.---Consultancy firm.

20

Did you know who was involved in it?---No, as in I don't know, yeah, so, I know that we, they used to have a name of the, I think the Three Wise Men on rail.

The Three Wise Men?---Yeah, on the rail, yeah. That's how I know it's just like a gossip sort of thing.

30 So they were not somebody that you'd had an involvement with in the Victoria Street Station or in the course of the engagement, the involvement you had in performing work on behalf of Sanber Group for the Victoria Street Station?---That's correct.

You hadn't had any involvement?---No, no involvement.

So did you have any reason to - did you know anything about why they might have been paying kickbacks to Mr Sanber?---I have no idea. I just question it and say just, I just said, "Are you getting kickbacks?" I remember saying, "Are you getting kickbacks?" and then - - -

40 Right.---And then he said, "It's none of your business." And then, 'cause I had a copy of the statement.

You had a copy of the statement?---Yeah, so then I was going to keep it just as - - -

And when you say the statement, are you referring to his bank statement there?---His bank statement, yes.

Right. And you were going to keep it?---Keep it as, I guess, leverage. If you - - -

10

Because you thought it documented him receiving a kickback?---Kickback, that's right. That's why I said I assume it was - - -

Right. And so after you had that conversation with Mr Sanber, did you understand that the profit for Victoria Street was ultimately split evenly? That is, he wasn't able to successfully retain more for himself?---I think he did because there was some payments that seemed, seemed, that, that, that was, that was out of context. Like, for like a \$10,000 job you got charged \$50,000. So I think he had a, I guess, I assume he had a deal in association with that company.

20

So in relation to expenses that were paid for the job?---That's right.

But in relation to the way that profit was split according to your spreadsheet, ultimately that was an even number to all three of you, is that right?---That's correct, yes.

Okay. And you were - - -?---I think the spreadsheet that we saw was the bottom-line figure and then that's, yeah, we parted ways.

30

You parted ways after that?---Yeah, yes.

And so you didn't have any further dealings with Mr Sanber - - -?---No.

- - - after the Victoria Street project?---Yeah, I don't think, no, I wouldn't, yeah, no.

And do you know whether Mr Abdi's relationship with him also deteriorated at that point?---I would assume so because we keep bagging him out and - - -

40

I'm sorry, you keep - - -?---We keep bagging him out.

Bagging him out. Right. Is that the "shitface" references continuing?
---Yeah, that, yeah, that's what I mean, yeah, that's what I mean. Like, I would assume so unless he was, it was playing, but I don't think so.

So after the Victoria Street Station project, is that the time at which you set up RJS Infrastructure or RJS Projects?---So RJS Infrastructure Group.

10 Yes.---And then RJS Projects came in after this - - -

RJS Projects was a trading name?---Trading name, yeah, trading name. It's just to shorten the, the company name.

Right. But RJS Infrastructure Group was the name that you used first?---Is the primary name, that's right.

Was that a name that you chose deliberately, the use of RJS?---That's correct.

20

Why did you want to use the RJS name?---So then we can use, so Abdal can, I guess, convince everyone that it's the same RJS that did Victoria Street.

Right. Do you recall if that was your idea, the name?---Oh, no, I wouldn't, that, I don't think it would have been my idea 'cause I thought we were finished.

Okay, so it was your company that you were setting up?---Yes.

30

But the suggestion for the name was given to you by somebody, was given to you by Mr Aziz, was it?---Both, I think both Nima and Abdal.

Both Nima and Abdal.---Yeah. I'm pretty sure it would be both of them 'cause if, 'cause I thought after Victoria Street that was it 'cause we had no company.

You thought that was it?---Yeah.

40 That is, you didn't think you'd continue to work with either of them?
---That, that's correct, yeah, or do something of that nature.

Right, so Victoria Street had been very profitable in relation to each of you, hadn't it?---Profitable, yes.

\$120,000 is a substantial amount of profits.---Yes.

That is split, that's reflecting a one-third split. The overall profit figure was about \$800,000 or more than \$800,000 off a \$1.7 million project. Was that a higher amount of profit than you would ordinarily expect to see in that kind of project?---Yes, that's - oh, it's hard to tell. Like, oh, oh, I don't know if I can comment on that because it's, it's, it depends on risk. But then - do you know what I mean? But this is another story like - so, yeah, so, but for that project that's, yes, I would say it's unusually high.

You would say it was unusually high?---Unusually high.

So you'd regard it as a successful project although your relationship with Mr Sanber had deteriorated?---That's correct.

Okay. So were you looking after that, to be able to replicate the success of that project?---Yes, so we wanted to use that, to continue on the success of the project, yes.

And when you say "we" who are you referring to there?---That would be the three of us. That would be myself, Nima and Abdal.

All right. So the vehicle that became the vehicle for the partnership was RJS Infrastructure Group, later RJS Projects?---Yes, which created RJS Infrastructure Group, so - - -

Yeah. And do you recall the creation of that company being an idea that you came up with together or was it your idea?---It wouldn't have been an individual idea.

It was a collective idea?---I think it was a collective idea, yes.

All right. And was the purpose of that to continue on the kind of model that had been successful in terms of your partnership at Victoria Street?---That, that's correct.

40

Okay. The first project that was awarded to RJS Infrastructure Group was the Central Station part A conservation works?---Conservation, yes.

If we could have the slide that relates to that from MFI 10? So this was a project that commenced in the second half of 2018. Is that - - -?---That, that is correct.

10 That timing's correct. And Mr Aziz was the Downer project manager in relation to this project as he had been on Victoria Street?---This, so Victoria Street was a TAP project and this is a NIF project, so different, yes.

But he was nevertheless the Downer project manager?---The, exactly. So he's still, yeah, he, he, he did the same role, yes, he was playing the same role.

All right. And NIF related to the Intercity Fleet?---The New Intercity Fleet.

20 These were conservation works that you were engaged to perform initially?
---Yes.

How did that relate to the Intercity Fleet?---So there was a heritage, from memory, there was a heritage signalling hut or storage hut that needs to be refurb. So the works was done, so - - -

What was Mr Aziz's role in relation to the engagement of RJS Infrastructure on the Central Station project?---So he would, yeah, so he would, he would control the tender process, who you go out to, I think, yeah.

30 All right. Did he provide you with information in relation to that tender process?---Yes, he did.

And do you remember what information he provided to you?---I don't know if it was the budget or a figure that he said, we can do it for this much, yes.

Right. So one way or the other, he indicated a figure to you, that you understood, well, was it a figure you understood should be the figure that you should include as your tender figure?---Tender figure. That's correct, yes.

Right. Did he also provide costings, that is, information to you in respect of costing of particular items?---I think I did the break-up. I think, I'm not too sure. I can't, can't recall.

All right. We might come back to that. Were you invited to tender in relation to this project?---I think, I, I think so. I mean, I can't recall but I think so. I was, I, I would have been invited to - - -

10 That is Downer approached - - -?---And approached RJS Infrastructure, yes, say, hey, can you tender this for us?

So did you understand that in relation to a project like this, Downer's process was to approach three companies - - -?---Correct.

- - - to provide bids and that was the invitation to tender process?---That's correct, yes.

20 And how was it that RJS Infrastructure, which was a new company, came to be approached by Downer to do this?---Through Abdal. Through Abdal, yes.

And did you understand that to be using the association that - - -?---Of the previous RJS who - - -

- - - from the previous RJS?---Yes. So on, on this spreadsheet, the subcontractor Constructicon, it still was actually SDL Projects.

Right.---So I used them as labour hire for this work.

30 So you used SDL as labour hire or - - -?---Yes.

And Ballyhooly?---As labour hire as well. I used two, two companies just to get it out of the way.

So there were additional subcontractors beyond what's listed in the slide or is it your understanding that Constructicon didn't - - -?---No, no. It's just, it's, it's not relevant. So Constructicon didn't have any involvement.

40 Did Monty, in a personal capacity, have some involvement?---No. It was the Seng that was there, he was onsite.

It was Seng that was there?---Yeah.

THE COMMISSIONER: Who did you use as labour hire? Ballyhooly?
---Ballyhooly Civil and SDL Projects.

SDL, Mr Sanber's - - -?---No, Seng Laphai.

Oh, Mr Sanber.---Yes.

10 Mr Seng, sorry.

MS DAVIDSON: Did Mr Nguy do any supervision work on the site?---I don't think so. I don't recall seeing him there. It's always been Seng that's always onsite with his crew, with his, his boys.

THE COMMISSIONER: So I just want to be clear on a couple of things. At this point you were still working for Inner West Council?---That is correct.

20 And you mentioned earlier that you met Mr Aziz at Maitland.---That's correct.

Were you going out onsite for these places?---No. For, for Victoria Street?

Yes.---No.

You didn't?---I, I probably went out there once or twice and that's about it.

30 And what about Central?---Central, yeah. So Central I was there on a regular basis as supervising and project managing.

While you were still working for - - -?---While I was still working for council, yes.

And how did you manage that with your domestic - - -?---Because - - -

You said yesterday you had some issues with your wife and you needed to attend to her and you were absent.---At work.

40 From Inner West Council and you were looking after her and managing your day care responsibilities.---Yes.

And how were you managing going to Central and coordinating your employment and your personal life?---Oh, so I would do a routine. I would do a loop. So I would always float in and out.

Sorry?---I would always float in and out of site.

What site?---As in the Central Station. So I, I wouldn't be there for the whole duration.

10

Right.---So I would be there for, say, half an hour and then I would go check on - - -

So you were doing that when you were working for Inner West Council?
---That's correct.

I see.

MS DAVIDSON: So when you say you would do a loop, is that a reference
20 during the day to being in multiple places through the course of the day?
---It, that's correct.

And did that include spending any time on Inner West Council sites or no?
---Oh, yes, it did. If I had to be onsite for Inner West Council then obviously I would be.

THE COMMISSIONER: I'm just curious because yesterday you said when
30 you were talking about the Inner West Council jobs that you gave a hundred per cent to those jobs. Do you still adhere to that characterisation of giving a hundred per cent to the jobs at the Inner West Council when you were running around doing all this work at Central and Maitland?---No, well, I would - well, that's the reason why I had the likes of, you know, people I know what I worked with before to do the work.

MS DAVIDSON: So is that true of the Inner West Council work that you
effectively employed people that you didn't need to supervise in relation to that work to free you up to go and spend time onsite in relation to RJS projects?---Along those words, yes. Something like that, yes. And to be at home and just to have time to do - - -
40

And is it true to say that nobody at Inner West Council had any idea that you were working on projects for Sanber Group or RJS?---I don't think anyone, I don't think anyone picked it up or I don't think anyone noticed.

You certainly didn't declare any secondary employment at any time?---No, I didn't declare. I didn't declare a secondary employment.

And you knew it was a requirement to declare secondary employment?

---Yes, I did.

10

Did it occur to you that you might need, in your capacity as Director of RJS Infrastructure, setting up your own company, to declare that?---It didn't occur to me to tell you the truth. It didn't occur to me at all.

THE COMMISSIONER: So how regularly would you be at Central?---I would probably do the pre-start at Central, yeah.

Sorry?---I would do the pre-start at Central. So just the, make sure the, the, the pre-start's been talked about, signed on. So that would be, like, at 7
20 o'clock in this morning when the boys starts and then I would go to council, do a bit of work there and then if I need to be home, go home.

MS DAVIDSON: In relation to the evidence you were giving earlier about being invited to tender, you understood that to be, that invitation to be orchestrated by Mr Aziz, is that right?---That's correct, that's correct.

We can go to volume 1.2, page 51. So have a look down at the bottom of the page, you see it's an email from Gareth Hutcherson to you. Do you remember who Gareth Hutcherson was?---So he was a contract admin at the
30 time.

At Downer?---At Downer, yes.

All right.---Yeah, contract admin, yes.

Okay. And you then - it's in relation to "NIF station and signalling enabling works". And it says there, "Dear tenderer, please provide a quotation for the heritage conservation works at Central Station," et cetera.---Yes.

Scrolling up to the top of that page, you then send that to Mr Cox and say, “Gear up.”---Yeah, I don’t know why I said that. I don’t, don’t, I don’t have any reference why I’m, what that, what was meant “gear up”.

Would you ordinarily use that kind of language in relation to getting ready for something?---Yes, yes, but I don’t know, but Aidan and Marble Arch didn’t have any involvement in it.

10 I’m sorry?---Aidan, Aidan from Marble Arch didn’t have any involvement in the, this, this part of works.

Didn’t have any involvement in it?---Yes.

So your involvement with Mr Cox on TAP and NIF projects came later? ---Oh, was this, yeah, so he, his one was the NIF, Lithgow Station, unless that - - -

With Lithgow?---Yeah, unless that’s the Lithgow package.

20 All right. I think if you scroll down you’ll see it relates to Central Station. ---To, yeah, so that’s the only thing that he was involved in NIF.

So you agree this clearly relates to the heritage conservation works at Central Station?---At Central Station, yes, that’s correct.

So you can’t otherwise indicate why you would have been - - -?---Why (not transcribable) geared up, unless it’s, yeah, ‘cause Aidan had nothing to do with this project.

30 All right.---Yeah.

If we can go to page 65 of volume 1.2. This is a quotation, if we scroll down, a page with your name on it as project manager for RJS Infrastructure.---That’s correct.

That’s a quote that you prepared for the purposes of this project?---That’s correct.

40 Did you also submit a dummy bid on behalf of any other company for this project?---I can’t recall.

Do you remember being involved in preparing a bid on behalf of Constructicon?---I can't recall. I genuinely can't recall. I don't know if - - -

If Anthony Byrne of Constructicon prepared a quote, is it fair to assume that that was a quote prepared by you?---That was from, yeah, that's correct, yes.

10 So to the extent that Constructicon, well, Anthony Byrne of Constructicon submitted a more expensive quote than RJS's, is it fair to assume that that was because you had prepared that more expensive quote?---That's correct, yes.

And the third bidder - - -?---I just, sorry, I just genuinely don't recall, that's all. It's - - -

20 Do you recall having any discussion with Mr Nguy about submitting a dummy bid on behalf of Constructicon for the Central Station NIF project? ---No, I don't think he knew anything about it because if I was to do it then it would have been under the instruction of Abdal or Nima saying go get me three prices.

Right. So you would have been providing a third - sorry, you would have been providing a bid on behalf of Constructicon.---That's correct, yes.

So that there would be another submission from another company.---That's correct.

30 And they would have been invited to tender by Downer presumably just like RJS was.---Just like RJS. That's correct, yes.

The third bidder was a company called Oriole. Did you know anything about them?---No.

They didn't ultimately end up submitting a tender.---They did or they didn't?

They didn't.---Okay.

40 If we can go to volume 1.2, page 301. Can we scroll down there and keep going through the document. Is this is a document you prepared?---Yes, I remember this, yes.

You remember that.---Yes.

If we can keep going. There's a reference then to the pre-start briefings being held at 7 o'clock. Is that the - - -?---That's the one that I would undertake, yes.

10 - - - thing that you would undertake? If we could keep going.---I would undertake or I would nominate a supervisor as in a Ballyhooly supervisor to undertake it for me on my behalf if I can't be there.

You see here on this page there's a list of key contacts.---Yes.

And they include Mr Nguy as the project engineer.---Yes.

Does that prompt your recollection in relation to Mr Nguy working on the Central project?---If he, if he was working at the Central it would have been through SDL.

20 Right.---Yeah. But I don't recall him being ever there I don't think. He needed to be there.

So notwithstanding that you, this was a document, this work activity briefing that you would have supplied to Downer.---Yes.

30 Did you have any - well, do you recognise the other names that are listed there as key contacts?---Yeah. So Edward so he's a Ballyhooly supervisor back in the day when this happened. Benson he was working for SDL and then Seng obviously SDL.

Right.---Yes.

So is it your evidence that they were all people, these were all people who, that is the other people on this list apart from yourself and Mr Nguy were all people who were genuinely working on the site?---Yes.

40 And did you understand Mr Nguy to have a role as project engineer on the site?---No. I think it's just more of a perception saying there is more body on the ground than there actually is.

Right. So you don't recall seeing him but you did tell Downer that he was one of the people who was engaged.---Yes.

Did Downer know about your arrangements with SDL in relation to this project?---As in Downer as in Abdal or Downer, Downer - - -

Well, Abdal to start with.---Oh, so, yes. Abdal knew the arrangement. He knew I was going to source labourers from SDL and Ballyhooly.

10 Right. Do you know whether anybody else at Downer knew that?---No, 'cause the only contact I had was, was through Abdal.

To the extent that you were out on the site did you have contact with any other Downer representatives on the site apart from Mr Aziz?---Yeah, there'll be Gareth.

Gareth.---Gareth - - -

20 Hutcherson?---Yeah. So he will obviously 'cause of the procurement of the progress claim and all that's how we had dealings with him on, on the claims.

Right. Did you understand whether he knew that the work had been subcontracted out to SDL and Ballyhooly?---I don't think he did, yes.

How was it that he assumed - well, did you understand that he thought there were people employed by RJS working on the site?---So I don't know. He would assume there are employees, yes.

30 Because for example you'd listed these people as key contacts.---Key contacts, yes.

And they were listed effectively as under the umbrella of the RJS Infrastructure Group on this document.---That's correct, yes. So these guys would be labour hire as well so - - -

40 Do you recall whether when working on the site they were presented in some way as RJS staff? Were they wearing uniforms or - - -?---No, uniform. There was no, no, no logos. I don't think I had any uniform back then so, as in no branded uniform.

Right. Did you later have a branded uniform?---Yes.

And when was that, do you remember?---I think when we picked up Lithgow.

Right. The original, if we can go back to the slide that's part of MFI 10, the original contract value for Central Station was \$92,000 or thereabouts. Do you recall that?---The original, yes, yes. That's the first contract, yes.

10 Yeah. And then there were - - -?---A variation - - -

- - - 26 variations. Does that sound right to you?---I didn't know it was that much, but - - -

The value of those variations came to a total of approximately \$418,000 which leads you to the \$510,000 total figure. Does that - - -?---No, I thought the next one was the CSR which was, I think was 300 grand, 300,000 - - -

20 I'm sorry. The next one was the CSR?---Yeah, the - - -

Is that a reference to the CSR works for platforms 4 and 5?---Platform, yeah, that, that's correct. Yes.

All right. If we can go to volume 1.2, page 359?---'Cause, 'cause I, 'cause my recollection is after the 92,000 works was completed, which was a possession work, which is a weekend work shutdown, then the next one was the variation for the CSR works, the platform, yeah, this one here, 219, yeah.

30

Right. So there was an opportunity to tender, but that was presented as, in terms of its approval or did you understand it to be presented in terms of its approval as a variation to the original Central project?---Yes, 'cause that's what I had to do with the claim, so the contract value, and then variation would add that line, line item down.

Right. So you had to add or you presented - - -?---For variation - - -

- - - it as a variation - - -?--- - - - variation - - -

40

- - - to the original \$92,000 - - -?---That's correct, yes.

And did you understand the presentation of that as a variation to be a means of avoiding a tender process, that is a means of getting other people involved in tendering for that CSR work project?---Yes. Yes.

Okay. So how did that work?---So just I, I, well, I vaguely recall I think Abdal saying, there's more works, we'll try and do a variation because you guys are there already.

10 'Cause you guys are there already?---That's correct, yes.

And did you understand him to mean by that you could effectively secure the work without the need to be any competitive process?---Yes, and plus I think there was a time constraint, I remember there was a time constraint where we had to start straightaway. So I think that, he took advantage of that, as well.

20 Do you recall whether the variations, that is the sum that included this \$219,000 plus approximately \$200,000 worth of other variations on Central were put through or you had presented those to Downer having discussed them with Mr Aziz first?---The, the, the \$200,000 variation that you've referred, I can't recall that. Is there a document showing that 26 items? I, I just don't recall what it is - - -

You don't recall the individual ones?---Yeah. Yeah. So if, if there's something I can see, it might trigger - - -

30 Do you recall in relation to Central having discussion with Mr Aziz in respect of variations?---Yes, but not, I don't think that many, 26 sounds a lot but I could be wrong.

I'll see if can locate a page reference for you.---Yeah.

Page 306 in volume 1.2, thank you, and 307. So you see this is a project certificate for the Central conservation works and the original subcontract works figure is \$92,200, which we have been talking about.---That's correct, yep.

40 And then the variations figure of 418,297. And then if we scroll down to the next page - is it possible to, thank you. This is where we have the listing of variations.---Oh, yes. I recall now, yes. So when we're doing, yeah, the

works for the conservation, the, the, the refurbishment, this is the bits and pieces in the building that needed to be completed, yes.

So, the biggest variation there is the CSR works, which is listed as V005A.
---Yes.

That's the job we've just been talking about that you said that you said were told to present as a variation by Mr Aziz.---Yes, that's correct.

10 You can see that there's another \$33,000 variation, V005B, "Increase in scope to CSR works".---That's correct, yes.

Do you recall having discussions with Mr Aziz in relation to the pricing of that variation?---Yeah. So I think there was a design change, that we had to go deeper with the route. So obviously deeper means more work because everything was done by hand.

And looking - well, I'll give you a moment to look at this list of variations.
---Yes. I'm familiar with the, these, these variations now. Yes.

20

Do you recall whether they were used, that is the prices that you charged for them, were used as a means of inflating your profits out of the job?---That, that's right yeah. So they're inflation, yeah. So they're, the works that was carried out had a, I guess, an added inflation rate.

Added inflated price?---Yes.

And was that a discussion that you had with Mr Aziz?---Oh, yes, yes. Of course. Yes. Aziz and Nima was involved as well.

30

And what was the nature of those discussions?---Just what's the variation, what's the cost, I guess, put it up, mark it up by this or put, I don't know, X amount on top.

So did you just do what you were told in terms of the mark-ups?---That's correct. Yes.

40 And did you understand there to be any threshold or limit in respect of Mr Aziz's capacity to approve variations at this point?---No. I just was, I just did what he told me to do. Like, like, he's the one that knows, I guess, his threshold. So if he says put X amount then I put X amount.

I think you've given some evidence earlier that you understood to have a threshold around \$250,000. Is that right?---No, that, that's, that was for Nima, for - - -

That was Mr Abdi's threshold. I see.---Yeah, yeah. That was back in 2014 when we did - yeah.

That was the Glenfield - - -?---The Glenfield, yes.

10

- - - project?---Yes. So I don't know the delegation within Downer, yeah.

You didn't know what Aziz's delegation was?---That's right.

THE COMMISSIONER: Just so that I understand, Mr Nguyen. With these variations, you say that Mr Aziz was effectively directing what should be added, is that the case, by way of variation?---Yeah. I would go to him and say, "Oh, I think this is a variation" and then I think he would look into it and say, "Oh, yeah, you're right. It's a variation."

20

Sorry?---Like, I would tell him, "I think this is a variation" because of the, it's out of the contract scope and then he would be like, "Okay. I think it is."

So it was you that was proposing the variations or was it he?---I think it was the team, both. So, so, so what I would propose as a variation would be a legitimate variation.

30

And what about what he proposed?---I don't know. As in he said, "You just do it" and then he would say, "There's a variation, just do it" and then he would add his price.

And you say your ones were legitimate ones but his you don't know, is that correct?---So he's one, so, so all the variation, the works need to be done.

Yeah.---So either they came from me, from the contract, that wasn't covered in the contract scope, or it just came out of, out of Abdal saying, "There's a variation. Put this down."

Okay. So was it your understanding that what Mr Aziz was proposing to you was a variation which enabled you to inflate the amount that was to be paid to RJS?---That's correct.

And are you able to tell us which of these variations were variations which Mr Aziz had proposed as opposed to variations that you had sought?---It would be all of them. I would have to run through all the variation through him.

10 Was there actually work down for all of these things?---Oh, yes, there was, yes.

For each variation?---Yes.

Thank you.

MS DAVIDSON: Just going back to the question of Mr Nguy being listed as one of the key contacts, was that also a means of you presenting to Downer effectively a larger, or the appearance of a larger team than you in
20 fact had performing work at Central?---That's correct, yes.

And what was the purpose of that?---Ah, I, I don't know. Just we have the manpower to do the work.

Right. So you wanted to suggest to Downer that you were - - -?---Capable.

- - - a company with a number of employees, which was not true, was it?
---Yes, that's correct. Yes.

30 And that you had manpower on hand to supply - - -?---Yes.

- - - for the purposes of this project.---But most of the time we, what we would do is labour hire, and then we can manage ourselves internally.

So most of the time it was labour hire and it would be managed yourselves.
---Yeah, most of the time. Yeah, so we don't, we don't really need employees, yeah. Yeah.

40 Right. So when you say it would be managed yourselves, do you mean by you?---Yes, so I would organise everything or I would get the supervisor from Ballyhooly would help me out, so - - -

Right. So it was never case, as I think we said yesterday, that RJS had any employees, was it?---That's right. Exactly, it was never the case, yes.

All it did was subcontract out.---And we managed the subcontractor, so it's all, pretty much we just get in labourers, work crew together, and then perform the works.

10 Right. So you were assembling - - -?---What a project would do.

- - - people from other entities.---Exactly, that's right, yes.

Or other individuals.---Yes.

But you weren't, apart from coordinating that, you weren't yourself providing any building services?---The building, the service I would provide is project management.

20 Is assembling the team.---So assembling, exactly, yeah. That's right, yes.

But Downer didn't realise that that was the nature of RJS's business, did it? ---That's correct, yes.

Right. And so far as you're aware at no stage did Downer know that?---Not that I was aware of, no.

30 Did you, in relation to the Central Station project, have an agreement with Mr Aziz and Mr Abdi in relation to the profit split?---Yes, there would have been agreement.

Do you remember what the nature of that agreement was in terms of the split?---I think it was three way, as in split three ways.

So it was split three ways.---And then I think I did, there's an Excel table but I can't remember what's inside the table that I did with the split.

40 Yep, we'll come to that. Do you remember how the split was paid, that is, the profits from Central? If we could go back to the slide that's part of MFI 10. Is it true to say the profit - and we'll come to your spreadsheets shortly - but so far as you can recall, that the profit on Central was about \$198,000?

---Yeah, I think that sounds about right, yes. When you split it individually it's - - -

Would you, you spoke about the level of profit on Victoria Street, would you also regard \$198,000 out of a \$510,000 project as being an unusually high level of profit?---Yes.

10 Do you recall how the profits were paid out of the Central Station project to Mr Abdi and Mr Aziz?---Not too sure. I can't recall, and I think it's cash but I don't know how I got the cash.

Was there a payment to JTG in relation to Mr Abdi?---Oh, maybe it was transfer, ETF or EFT, yeah.

I think that you'd given some evidence earlier that JTG was set up - - -?
---Yes, as a - - -

- - - as a means of receiving profits?---That's right, yes. Yes.

20 So did that mean that you paid invoices to JTG as a means of transferring profits?---As, that's correct, yes.

And do you recall what those invoices purported to be?---I can't remember the exact figures.

No, not the figures on the invoice but what they were meant to be for.---I don't remember. Oh, did I do them myself? Management services or something like that.

30 Right. But in any event you'd agree they weren't in relation to any service JTG had actually performed for RPS?---That's correct, yes, that's right.

It was a sham for the purposes of transferring profits.---Purpose of getting, transfer profit, that's right, yes.

Right. And so if there were consultancy services described on those invoices from JTG?---Oh, that's consultancy, that's, that's right, it's not, it's - that's correct.

40 There wasn't, that was - - -?---Just the title.

- - - not any service that - - -?---Was provided.

- - - anybody associated with Mr Abdi had performed for RPS?---RJS.

Sorry, for RJS.---Yes, that's correct.

Do you recall any payment in relation to the profits being used for matters associated with Mr Abdi's farm, or the fig farm?---As in the, there was a tractor.

10

Yes.---Is that what you're referring to or - - -

Well, I'm asking - - -?---Asking.

- - - a more general question. I was going to come to the tractor.---Okay. Just the thing that popped in my head was the tractor, yeah.

Do you recall any fig farm investments or fig farming related investments being made out of the profits from Central?---Yeah, it was just the fig, the greenhouse that we built I think.

20

There was a greenhouse?---Greenhouse, yes.

Right. And was that something that came out of Mr Abdi's profits or Mr Aziz's profits or yours or everybody's?---Oh, it's I think just mine and Nima's.

Right.---Abdal didn't want anything to do with the farm.

30 Okay.---Yes.

He wasn't an investor.---He wasn't an investor, he had no interest.

Okay. And the tractor, was that something that was purchased - - -?---So that was something that was purchased - - -

- - - out of the profits from the Central - - -?---Yeah, so that was Nima's idea to get a tractor for the farm.

40 Right. And was that purchased by RJS Infrastructure?---Yes, it was purchased by RJS, yes.

Right. Do you remember how much that cost?---47 is the, comes in my mind.

Yep.---Is, 47 comes in mind.

And the tractor was subsequently used by Mr Abdi on his property, is that correct?---Yeah, it's there, it's, it, pretty much the sole purpose was, was for him.

10

Pretty much the whole?---The sole purpose was for him, for himself. Like, I have no use for a tractor.

You didn't have - okay.---I can't bring a tractor to my backyard, you know, like - - -

Right. I think you said that you kept a spreadsheet in relation to profits from Central. We'll come to those in a moment. But you compiled various profit spreadsheets in relation to Central. Do you recall why there were multiple documents of that kind?---It's because the costs kept - I don't know. If, if, if there's changes it must be the costs of the project changes or the splits change. Oh, not, there was, still be the same. I think either the costs of the projects or the cost, yeah, would increase or decrease or something like that.

20

Okay. If we can go to volume 1.2, page 377. This is a document that was found on your laptop at the time that a search warrant was conducted in 2020. You'll see that there's a box for Central Station and then one for Lithgow, which we'll come to. But that refers to a three-way split of approximately \$72,000 each if GST is included.---That's correct, yes.

30

And that reflects your understanding in relation to about how profits were in fact split?---Yes, that's how it was split, yes.

We can come to page 378 of the same volume. So this is, and scrolling, well, you'll see there in the middle of the page, there's a reference to Tony injection of \$27,000?---Yes.

Do you recall what that was?---So that was, I had to put in my own money just to run the business, so just like a director's loan.

40

So that was an outgoing - - -?---Yeah, so, I mean - - -

- - - as a result of that was repayment of the loan?---That, exactly. It's just a cash flow sort of thing.

Okay. And scrolling down to the next page, so similarly on this page where you see outgoings for TA and NA injection and TN injection, do you recall what that related to?---Where, where's that, sorry?

10 I apologise. This is actually one that relates to Lithgow. I withdraw that question.---It's okay. I see, yes.

If we go to page 381? I think my note is inaccurate there. Apologies. If we can scroll to the following page? This is where you see a reference there to an invoice to JTG \$560,000 including GST. But does that reflect the answer you gave before in relation to the way that payments were made or the mechanism by which Mr Abdi was paid - - -?---That's correct.

20 - - - for profits out of the Central? And this one is a combined document in relation to Central and Lithgow?---That's correct.

We've noted or I've noted that there was a number of versions of the profit split document that you prepared. If we can go to page 390? That's a document that shows a total profit figure, well, of \$198,000 in relation to Central Station. If we compare that to page 387 in the same volume? And scrolling down, that's the Lithgow one, again. I'll come back to that. Moving on then to Lithgow Station, that was a NIF project that you worked on after the Central Station project. Is that correct?---That, that's correct, yes.

30 And was Mr Aziz again the Downer project manager in relation to Lithgow?---That's correct.

And did he assist you in relation to your pricing for that project?---Yes, he did assist.

40 And how did he provide that assistance?---So I think we worked out to be the cost price, so this is where I got Aidan involved. So originally the, originally Abdal asked me, "Can we do this?" and I said, "No. I, I, I'm not capable of doing this" and then I showed it to Aidan and Aidan said, "Oh,

that's piss easy." Excuse my language. "That's easy to, that's, that's no drama. It's, it's buildable, it's constructable."

So where you thought it was too hard, why was that, do you recall?---Oh, just, it was just high risk. To me, for myself, it was too high risk and because it's a two-week shutdown, you know, it's around the clock. You've got the train, you need hand back the train, the trainlines for the trains to operate.

10 So by comparison to the works that you had done previously they're, I think you said there was one possession in relation to Central.---yes.

But the other works that you had done hadn't involved shutting down the trainlines, is that right?---No, no. So, within normal business hours, yeah.

So this was you moving into new territory in terms of - - -?---Oh, not new territory but, like, I, I found it was just, it's, it's high risk for a, a one-man job to organise everything, yes.

20 And so you got Mr Cox involved?---Yes.

And why was it that you thought Mr Cox's involvement would assist?
---Because he has the technical knowledge, he had the technical knowledge just to pull this job off. So he would have the right methodology, the right way of doing it. So I would do it one which probably to me seems right, but he would have another way of doing it, which is, I guess, maybe it's just a, an efficient way of doing it.

30 So Mr Aziz approached you in relation to it and you initially - did you initially say no to him?---Turned it down. Yeah. I, I initially turned it down and said, "I can't do it myself."

And then you spoke to Mr Cox about it and he said it would be piss easy and - - -?---Yes.

What happened after that?---Oh, and then I told Abdal, "Hey, I, I found someone that can do it."

40 And was it at that point that Mr Aziz provided you with assistance in relation to the bidding process?---Yes. So if he, when he knew that we could do it then he said, "Okay." Then he provided assistance.

And did he do that by providing you with competitor's pricing?---I, I believe so, yes. I can't remember who was which contractors but I think, I vaguely remember I seen some, yes.

And did he provide you with information as to what you should price the project at as well?---Yes.

10 That is the mark-up?---That is the mark-up. So he said, "Work out the cost price." So between Aidan and myself we worked out the cost price and then sent it to him and he said, "Okay. Mark it up to" whatever the value he, he asked for.

All right. So if we can go back to the slide that relates to Central, sorry Lithgow, as part of MFI 10. So this is an overall view in relation to the Lithgow Station project. So by the time of Lithgow we were in early 2019 and Mr Cox has come in as a silent partner with Mr Abdi in relation to the way in which - well, would you agree he was your silent partner in relation to this project?

20 ---Aidan Cox or - - -

Aidan Cox.---Yes, yes.

And did Mr Abdi know about that?---Yes.

Yes.---Because that's how I told him we can pull off this job, if we have Aidan onboard.

And similarly Mr Aziz knew about that?---Yes.

30

I think you said you'd prepared a price and you sent it to Mr Aziz and he gave you some advice in relation to that. How did he communicate that advice?---I think it was through email. I would, I think there would have been a breakdown of, a cost breakdown and I would sent it to him and then he - - -

Do you recall having face-to-face meetings with Mr Aziz in relation to preparations for your bidding on the Lithgow project?---I can't recall if it was face-to-face for this particular reason, or if it was over the phone or through text.

40

Do you recall him meeting with Mr Cox at some point in relation to you preparing for submitting a bid on the Lithgow Station project?---As in, when you say a meeting - - -

Mr Aziz meeting Mr Cox.---Outside of work or - - -

A meeting between you and Mr Aziz and Mr Cox and potentially others, do you recall such a meeting taking place?---I recall. The, yes, I recall there was a meeting that took place between myself, Nima, Abdal and Aidan.

10

Right.---Yes, but I can't remember if we were discussing the costs, the price of this. It's just I think more was to suss Aidan out, to see if he was capable of doing it.

Okay. So - - -?---Asking question of - - -

I think you said Nima Abdal there, did you mean Nima Abdi or - - -?---No, Nima and, oh, so Mr Abdi and Mr Aziz.

20 Mr Aziz and Mr Abdi - - -?---Abdi.

- - - were both present at the meeting.---That's right.

Okay, to suss Mr Cox out?---Yes.

But you don't recall there being any discussion of pricing at that meeting? ---There wouldn't be any pricing because they wanted to keep him on the, in the shadow, out of the loop.

30 Right. So they didn't want him to be part of the profit-split arrangement that you had with them.---That, that's correct. That's right.

Okay. Is that because you understood them to want the profit-splitting arrangement to continue as it had?---They just want more for themselves. If you add another person, then it's a four-way split.

Right. Did you have that discussion with them in relation to a four-way split? Do you remember?---Oh, yes. So I asked them, so I, I recall saying, "Oh, so how do you want to deal with Aidan?" And they said just pay them
40 by the hour.

Right.---And obviously Aidan wasn't happy with payment by the hour because, yeah, it's not worth doing it. You've got to something that's worth doing it, so I made my own arrangement with Aidan Cox.

So you made a separate arrangement with Aidan Cox.---Just to make sure he's onboard. If he's happy then he'll be onboard.

Okay. So does that slide accurately reflect effectively a side arrangement that you had in place with Mr Cox?---Well, I don't it was that 350 mark.
10 That's a bit too high.

You think that that's too high?---Yeah. I think maybe - - -

I can take you to the invoice in relation to that. We'll come to it.---Okay.

THE COMMISSIONER: Before we get to that, can I just ask a couple of questions. Mr Abdi, was he ever a partner in RJS?---No.

Sorry, Mr Aziz, rather?---No, he wasn't.
20

He wasn't. How did you distinguish as a person who got profit share from a position of Mr Abdi so far as RJS was concerned?---So what I, what, so, so obviously, so the money would be going to the RJS, the RJS Infrastructure account.

Yeah.---And then it would get transferred over to the JTG Services account, and then I think Nima would transfer it to Abdal, Mr Aziz's account.

Separately.---Separately, yes.
30

And just so that I'm also clear, at this stage in 2019 you're still working at Inner West Council.---That's correct.

And you talked about having a meeting with the other three persons that you mentioned. How are you managing the work at Inner West Council with meetings and dealing with this Lithgow project and your responsibilities at home?---Well, the council work, to me, it's, it's, it's like a no-brainer. It's, I'm confident of doing the work, as in, confident in carrying out the work, as in, it's not something I struggle with. So I now I can perform it and
40 perform well so - - -

So were you going to Lithgow?---So with the Lithgow, so there was a two-week shutdown, I would have taken two-weeks leave to go down there.

So you took two weeks leave and you went out to Lithgow and, I understand.---Yes, on a daily basis. Yes, to, yes.

Okay. Thank you.

10 MS DAVIDSON: I've been asking you some questions about how you communicated with Mr Aziz in relation to the pricing for the Lithgow project, do you recall, and I think you said there were some emails, and we'll come to that, do you recall using the Wickr app?---Oh, yes, that's what we would use with the Wickr app, yes, I forgot about that. Yes, that's what we, that's what we would chat on.

So can you explain what the Wickr app is?---So it's like a WhatsApp chat but another platform.

20 Right, another platform.---That's right.

Okay. And did you understand the reason for using the Wickr app in particular?---'Cause it burns the message.

Right. So it - - -?---Deletes, erases, it self-erases the message.

So the messages don't persist - - -?---That's right.

- - - beyond a certain period of time.---That's correct.

30 Okay. And was that, that is, the use of that particular app, because you understood Mr Aziz didn't want to be detected passing information onto you?---Yeah, that would, yes, that would be one of the reasons why we used the apps, yes.

Was there another reason?---Actually, that might be the reason. Just, just to, because it self-erase so it's harder to I guess trace.

40 Right. Were you also familiar with Mr Aziz using a service called Guerrilla Mail?---Yes, so that's what he would respond to me by email with information.

Okay. What did you understand Guerrilla Mail to be?---Oh, it's just a, it's a, it's just an email, just like a, a random email that gets sent to you.

A random email?---Yeah.

Did you understand that it had any self-erasing capacity?---I don't think it did.

10 Right.---I don't think it did, yeah. Just that it's, it's just another platform of sending undetected email or personal email.

Okay.---Yeah.

So we can see from the date shown on the slide here, the date of the contract in relation to Lithgow was 2 May 2019. Does that sound about right to you?---That sounds about right, yes.

20 Yep. So if we can go to volume 1.3, page 32. This is an email, if you look in the middle of the page, there's an email address @guerrillamail.com in April 2019. It doesn't have a signature there but did you understand that to be the kind of Guerrilla Mail address that was being used by Mr Aziz?
---That's correct.

Did anybody else communicate with you by Guerrilla Mail at this time?
---No, it was just, it was just Abdal. Nima would have emailed me through another email.

Right.---Yeah.

30 So this was just Mr Aziz?---Yes, that's correct.

Okay. So here he's saying, he's providing, well, indicating that there's one set of meeting minutes and OOH application information would be provided. Do you know what OOH is?---I'd say it's out of hours. So that's the possession, the possession time period of shutdown, yeah, so.

40 Right. And then he says, "I pushed to have the provisional sum spread across the scope items to ensure no risk of challenging our claim. There is a risk that Downer will request substantiation et cetera and result in losses. I will discuss this with him verbally," et cetera. What did you understand him to be giving you instructions in relation to there, pushing to have the

provisional sum spread across the scope items?---'Cause I think there was a, there was a line item for provisional sum for, I guess, unknown circumstances - - -

Yep.--- - - - for the project.

Yep.---So I think he suggested if you just spread it out across the items that was on the scope - - -

10 So instead of having a provisional sum, just inflate the items?---Yes. So instead of, say, having provisional sum of 150, you just distribute the 150 to the other key items.

Across the rest of it?---That's right.

Where he says "to ensure no risk of challenging our claim", so it was safer from the perspective of getting paid to do it the way that he was suggesting, is that what you understood that to mean?---That's, that's correct 'cause, 'cause if I was to claim a provisional sum, then I had to show substantiation
20 documents.

Right.---Demonstration.

So it was harder to falsify a provisional sum, is that effectively what he's suggesting to you here?---Not falsify but harder to approve or harder to get, get over the line.

Right. Harder for him to approve because you might have to provide substantiation.---Substantiation and then (not transcribable) say that's not
30 enough.

Okay.---Show me some more and I might not have more.

And you wouldn't necessarily be able to do that - - -?---Exactly.

- - - if the prices were inflated in any event, is that part of the point?---That's correct, yes, yes.

40 So was an email of this kind an example of him giving you information to assist you with pricing? You said that this is in April 2019. To assist you

with preparing pricing for the purposes of RJS's tendering?---Assisting, assisting, not preparing.

Yeah, to assist you in preparing.---Yes, yes.

I'm not suggesting he was preparing it.---Yes, that's correct.

10 Okay. If we go to page 37 in the same volume. This is another email from Guerrilla Mail on 15 April 2019 to you and it forwards on rates and there's an attachment. It says "Robson rates". It says "ASD" in the text - - -?
---That's just him playing gibberish.

Yeah, typing?---Yeah.

20 Yeah. If we continue down, you see there's some Downer rates included there. Do you recall what you understood this to be?---I think there's, so part of the contract, there's a schedule of rates, as well, that you need to provide, just in case there's any variation, so it's easier to track the variation through, say, hourly rates. So I think these are the hourly rates.

Right. So if he provided you with the Downer rates, enabling you to charge up to the maximum the Downer rates would provide for - - -?---The maximum, would, would approve, that's right.

- - - was that also assisting you to effectively take the pricing up to the maximum that it could be?---That, that's correct. Yes.

30 Right. And where he says "Robson rates" do you recall what that related to?---So Robson's a company that Downer use, they, they've been, that's been employed by Downer for various jobs, yeah. So just another subcontractor for, for Downer.

Right. So effectively these were either rates that were approved by Downer or rates that had been provided by another company and either way, it was giving you assistance in preparing RJS's quote?---Quotes, yes.

40 Okay. If we can go to page 46 in the same volume? Perhaps if we scroll up to the previous page? Let's go down to 46. So that's your schedule of rates. Page 46 appears to have or does have some mark-up in it and there are comments from A1 and A2. Do you recall who was providing those

comments?---Yeah, so I would have sent, I would have sent that to Abdal to review, and that's his comment, that's his feedback.

Right. So you would have provided questions in relation to - - -?---No, no, he would provide - - -

Well, does this relate to the wording of the contract part is my question. ---Yeah, the, the wording of the quote, yes.

10 The wording of the quote, ok.

And, again, he says, for example, under the Pricing Schedule heading, "PS is shown as 156,099. Is this correct? Yesterday you said 157 K." Does that again reflect you having pricing discussions with him - - -?---Again, his comments, his feedback of, yes.

Right. And was the purpose, well, what was the purpose of you providing the draft quote document to him for feedback?---I guess it's just for him to be comfortable in review, make sure that RJS is covered.

20

Okay. So did you understand his purpose in reviewing the contract to being protecting RJS's interests or maximising the amount that could be included in the quote, from RJS's perspective?---Just to cover all bases, yes.

Right. And when you say "to cover all bases" what do you mean by that? ---So then make sure there's nothing that is missed out, like, say, like, say for the L-shape wall, see how it says it's in a U-shape, , just in case, say, we price it L-shape and then it it ended up being a U-shape, so we didn't allow for the U-shape so there's a extra side wall, do you know what I mean, like, yeah.

30

Okay. So, again is it to the benefit of RJS that he's providing these comments?---That, that's correct, yes.

Right. And for the purpose of securing RJS's interests in putting forward the quote that Downer would then subsequently agree to?---That's, that's correct.

40

Okay. Was this, that is, Lithgow, similarly a job on which variations were used to increase the price?---No, there was variation. There was genuine, I can't - there, there was variation that was needed to be carried out.

Sorry, there were variations that needed to be carried out?---That needed to be carried out, yes.

And do you recall a discussion of those variations with Mr Aziz?---Vaguely. Like, obviously I would have went, went through with him, with the variations. So, yeah, is this a variation or can, can this be passed as a variation?

10 And was the process similar to that which you described at Central?---At, yes, yes.

So similarly variations were, I think on your evidence, work that needed to be done.---To be done.

But he would encourage you or give you information to say, "Mark it up". ---So say, "Oh, you can increase it or just leave it as it is" or, yes. So we would give us feedback, yeah.

20 And was that also, as you understood it, for the purpose of using variations to inflate the price that you were ultimately able to - - -?---Increase the profit.

- - - choose and - ultimately be able to charge, I should say and this increase the profit?---Yes.

Did you similarly use spreadsheets in relation to tracking - that is spreadsheets that you prepared in relation to tracking profits for the Lithgow project?---Yeah. I think you showed it before. I think that was one of the tracking sheets.
30

Yep. So, if we were to go to volume 1.3, page 367. Do you recognise this as a document that related to the Lithgow project?---Oh, yes. That's the Lithgow project, yes.

Can you see there that there's a column that says TN and AC Only and beside that to the right there's a column that says For AA and NN.---Yes.

So can you explain what those two columns relate to?---So the TN and AC, so obviously that's Tony Nguyen and Aidan Cox. So that was for
40

internally. So obviously for me to engage Aidan to assist in this project it was a profit split rather than an hourly rate.

So, where you say TN and AC Only, and then For AA and NN - - -?
---That's what I would present to Abdal and Nima. So yeah, they - - -

10 All right. So where there was an Actual Actual column under TN and AC Only, and you see in relation to some of those items, well, the first of those items, it's a higher figure for concrete but then that is higher than the allowance figure. The allowance is just the amount that you'd allowed in the quote presumably.---Yes.

And then in the Actual Actual figure you have 61,000 and then in the Actual column to the right of that you have \$34,536.62.---Yes.

20 Then going down to Liberty Steel, by contrast, in the TN and AC Only column you've got 12,000 and something dollars whereas in the For AA and NN column you've got \$21,000. So you're presenting for concrete a lower figure, that is a lower figure to - correct me if I'm wrong. I think you said that this column on the right, For AA and NN, was what you were presenting to Mr Abdi and Mr Aziz.---Yes.

And the other column was for your internal purposes with Mr Cox.---That's correct, yeah.

So, generally in that right-hand column, For AA and NN, you have higher figures included.---Yes. So that would be the profit share between myself and Aidan.

30 All right. Is it true to say that you were presenting figures to Mr Abdi and Mr Aziz that were inflated figures - - -?---To cover the costs.

- - - in most instances, apart from this concrete figure, it seems, to enable you to siphon off profits that you could then keep as between yourself and Mr Cox, is that correct?---That, that's correct, yes.

40 So Mr Abdi and Mr Aziz, when they looked at effectively your accounting, weren't able to see the amount that you were taking out to give to Mr Cox.--
-That's correct.

Right. They knew, I think you said, that you had some arrangement with Mr Cox.---Yes, so they knew they wanted to pay him an hourly rate which he didn't want. When I proposed that to Mr Cox he didn't, he said, "What's the point?"

But they continue to think so far as you're aware - - -?---This it was hourly rate.

10 - - - that he was being paid an hourly rate?---Paid hourly rate, that's correct, yes.

I see. Are you able to explain why this concreting figure is in fact a lower figure for AA and NN column than in the Actual Actual column?---I can't, I can't recall.

Okay.---But that, at the end of the day it all balances out if you add it together, like - - -

20 Right. Generally if you look to the Actual Actual costs at the bottom, that is, the TN and AC Only column, you have \$416,000 whereas on the right the, for AA and NN you have \$942,000 in costs showing, so there was substantial inflation that was going on there.---That's right.

And does that, a discrepancy between the 942 and the 416, the difference seems to be that \$526,000 figure that's shown underneath there?---Oh, it's not a discrepancy. It was done on purpose, like - - -

I understand it was done.---Yeah.

30 But just as a matter of maths, if you take from \$942,000 the \$416,000 that's showing in the Actual Actual column - - -?---Yes.

- - - would you accept you get that \$526,000 figure?---Figure, yes, that's correct.

40 So you, if we can go back to the slide that is MFI 10, had an agreement with Mr Cox in relation to splitting profits. Was that an agreement to pay him a particular sum?---No, it was just to maximise the profit, or to increase, to include the risk as well.

Right, but in terms of the substance of that agreement, the amount that he was to be paid - - -?---Yes.

- - - do you recall discussing with him a particular figure?---It would have been a fifty-fifty per cent, a fifty-fifty split.

All right.---Yeah.

10 THE COMMISSIONER: Fifty-fifty between whom?---Myself and Aidan.

MS DAVIDSON: All right. If we can go to volume 1.3, page 359.

THE COMMISSIONER: I'm sorry, and the others, Mr Abdi and Mr Aziz were not aware of that?---No. So the reason why the, we, the reason why I inflated for their behalf as cost price is to allow for the risk because it's a two-week shutdown and if something goes wrong, they're not going to take the hit for RJS, so, 'cause they think 900 is the cost and nothing will go wrong but nothing always runs smoothly.

20 So just so that I'm clear, what, what was the costs that they were aware of? ---Nine-hundred and, nine-hundred and something, the figure.

MS DAVIDSON: Yeah. All right. If we can come back to 1.3, page 367, we'll see the figures again, Chief Commissioner.

THE COMMISSIONER: Thank you.

30 MS DAVIDSON: You can scroll down to the bottom of that. So they understand, do I understand your answer correctly, that it was - - -?---The cost.

- - - the costs were \$942,000 whereas they were in fact \$416,000, leading to a difference of \$526,000 that was then split between you and Mr Cox. ---That's correct. So that, that would have been for the risk, so it's the risk plus the profit pot.

I'm sorry, a risk?---A risk pot and a profit pot.

40 Right. A risk pot and a profit pot.---So when you do a project you always allow for risk, a bit of risk.

Sure.---Just in case something backfires and you have something to, so if you just allow for cost price and something goes wrong, you didn't allow for the risk.

Okay. So in terms of what was ultimately distributed, if we can go to volume 1.3, page 359, this is an invoice for the Lithgow platform extension works from Marble Arch to you for \$350,000 which corresponds to the figure - - -?---Oh, that's okay.

10 - - - that was shown on the slide that I showed to you. Does that prompt your memory in relation to the amount that Mr Cox was paid for the Lithgow project?---So, so I think that's, that's additional between the profit between myself and Aidan and then my profit between the other three. So put together, combined, split in half. Doesn't make sense.

So you paid - is it now your evidence you paid Mr Cox the \$350,000 that's shown on this invoice?---That's correct, yes.

Plus GST?---Plus GST, yes.

20

And the remainder was then split as between you, Mr Abdi and Mr Aziz?
---No, no, no. So, so the nine, so the, the 940,000, so that's cost and then the mark-up, so - oh, how do I explain? I don't, it's pretty complicated to explain. So the, the, the share between, the split between myself, Nima and, and Abdal, my share would be included, would be included, would be additional to the 500.

Yes, that's what I'm asking you.---Yes. And then there would be - - -

30 So effectively that you took an addition share out of it before you split things one-third each way - - -?---That, that's correct, yes.

- - - with Mr Abdal and Mr Aziz, is that accurate?---That's, that's correct, yes.

And that's because you'd presented to them a false picture as we saw from the sheet with the actual actual figures in it.---Actual.

40 They thought that the costs on the project were about \$500,000 higher than they actually were?---That's correct.

So the total, they thought, for costs was about \$942,000?---That's correct, yes.

But in fact it was that four hundred and some thousand dollars figure?
---That's correct.

And so am I right in thinking that you and Mr Cox split, as between yourselves, that \$500,000 or so figure prior to the split being made between you, Mr Aziz and Mr Abdi?---Something along those lines, yes.

10

THE COMMISSIONER: And how was it split between you and Mr Cox? Where does this figure of 350,000 come from?---So it would have been - so, so, the profit between my share, my split between Nima, Nima and, and Abdal, I think it was maybe 200 grand, oh well, 200 grand, so 200 grand plus the 400 grand, would be 700, divided by two with a fifty-fifty split.

Oh, I see. So you took the combined - - -?---Combined, yes, the combined.

20 The combined profit from the cost that you represented - - -?---Plus the costs of - - -

- - - with Mr Cox, together with your profit that you had secured for Mr Aziz and Mr Abdi.---Abdi.

And then you divided it by two?---Split it by two, that's correct, yes.

And you each got?---350.

350,000.

30

MS DAVIDSON: And Mr Abdal and Mr Aziz didn't know about that component of your profit split?---No, they didn't. No.

If that might be a convenient time, Chief Commissioner.

THE COMMISSIONER: Did you ever show them the breakdown of the costs?---Of the actual actual?

Yes.---No.

40

Well, did you show them any breakdown?---Yeah. The 942.

