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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE JOHN HATZISTERGOS AM
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION HECTOR

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 23 MARCH, 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. Right. We'll continue with the evidence. Mr Laphai, you're subject to the same oath you took yesterday to say the truth. Do you understand?---Yeah. Understood.

Yes. Thank you.

10 MR ENGLISH: Thank you, Chief Commissioner. Could yesterday's transcript page 356 please be brought on the screen? Thank you. Mr Laphai, this is a transcript of your evidence yesterday.---Sure.

And do you remember I was asking you some questions about the supply form for Inner West Council?---Yeah.

And the Commissioner asked you, if you see there, about halfway down the page, the Commissioner started asking you some questions about the bank details. Do you see that? So the Commissioner asked, "So the bank
20 account details that are recorded there, they're your bank account details?"
And you've said, "Correct"?---Correct.

Do you see that?---Yeah.

And then it says, the Chief Commissioner asked, "And you say you supplied them in an expression of interest form?" And then your answer was, "Yes. I think by that time, we are already sort of working on the Victoria Street, as well. We must have sent some invoices to Raj"?---Yeah.

30 Do you see that?---Yeah.

Okay. And then you can see I asked you a question just referring to the date of that form, which was 4 July 2017. Do you see that?---Yeah.

Okay. I'm just wondering can, please, volume 3.8 page 217 please be brought on the screen? So this is, you can see, the SDL Project Solutions quotation for the Victoria Street Station upgrade. Do you see that?---Yeah.

And it says, "attention Raja Sanber". Do you see that?---Yeah.
40

You said you knew him as Raj yesterday. This is the date of 11 July 2017. Do you see that?---Yeah.

You must have learned his name by that stage, that his name was Raja Sanber. Is that right?---Correct.

And it's not signed but it's got your name at the bottom of the quote? ---Yeah.

10 Do you recall drafting this quote?---Yes.

Okay. So you recall that the form was dated 4 - - -?---Yeah.

- - - July 2017, so a week prior - - -?---Yeah.

- - - to the submission of this quote?---Yeah.

And you referred in your evidence that I just took you to to invoicing? ---Yeah.

20

So it's correct, isn't it, that you wouldn't have invoiced by 4 July 2017 in relation to Victoria Street 'cause you only provided the quote by 11 July 2017?---Correct.

Okay. All right. So if we can go back then, please, to Exhibit 46, volume 5.2, page 212, and that's the form, all right. So it must have been, mustn't it then, if we're looking at this form on page 212 that you supplied the bank details there? That would be right, wouldn't it?---Yeah.

30 And do you recall - can I suggest to you that there's only two ways that this form could have been completed? Either you did it yourself and filled in the information and signed it or you provided information to Mr Nguyen who then brought you the form and then you signed it.---Correct. I, I - - -

Which one do you think it might be?---I think it might be that the form was prefilled and then I signed it, yeah.

40 So you supplied some information to Mr Nguyen, who used that to fill out the form and then he brought it to you and you signed it. Is that right, is that your evidence?---Um - - -

If you don't know, you don't know.---Yeah. That will be my best recollection, yes.

Now, when you say your best recollection are you just thinking it might have happened that way or do you have a memory?---I don't really have a - what's the date of this, sorry, this form?

10 This is 4 July 2017.---Oh, so, so, yeah, oh, I'm not sure if we actually did any jobs for Inner West Council back then. So, yeah, it, it must have been prefilled or I provided the bank account details and he filled it out and I signed it.

You probably would have provided the ABN too as well, wouldn't you, then?---Correct.

Might we please go to page 209 of volume 5.2? Here you can see an email on 16 June 2017, so some two and a half weeks before that form was signed by you - - -?---Yep.

20 - - - where Mr Nguyen, I think you would agree, that's Mr Nguyen emailing himself from projects@sdlprojects.com.au but using the false name Joanne Breen. Do you see that?---Yes.

And he says, "Are there any upcoming works you would want SDL Projects to price? Looking forward to hearing from you." Do you see that?---Yeah.

Now, that's just a ruse, isn't it? That's Mr Nguyen writing to himself.---Oh, yeah, I believe so. I can't comment because I wasn't even, I'm not part of that email.

30 Well, what did you know? So 16 June 2017, what, if anything, did you know about Mr Nguyen using this name, Joanne Breen, and the email projects@sdlprojects.com.au to write to himself at council? What did you know about that?---I know that he had the system with Constructicon, similar sort of system and what I sort of, collectively I think, we agreed to adopt a similar system.

40 It's not very honest, is it, that Mr Nguyen's adopting a false name to write to himself to give the impression that someone else from your firm is writing to him. Would you agree?---Yes.

THE COMMISSIONER: And just to follow up on that, you were aware of that at the time it occurred, is that the situation?---I'm not sure at that time but I was aware that, that Joanne Breen was a name that was going to be used.

On your behalf?---On SDL behalf, yes, yeah.

10 MR ENGLISH: And just to be clear, you said it was going to be the same system as Constructicon. What did you understand that same system to be, just in your own words, please?---I mean, Tony was able to give Constructicon jobs, and similarly SDL will get the jobs the way Constructicon would get the jobs.

And did you understand that Tony was using a false name to do this sort of thing that we're looking at on the screen?---Not, not, not initially, no.

Not initially.---Yeah.

20 If we can go, please, to volume 18.23, page 1?

THE COMMISSIONER: Just one moment.

MR ENGLISH: Sorry, just give me one moment. So if you see that email there in the middle of the page, the green one - I withdraw that. It's a WhatsApp message. That's your phone ending in 654, isn't it?---Correct.

And the phone ending in 128, that's Mr Nguy's phone, Monty's, is that right?---Correct.

30 Okay, so you send there, on 16 June 2017 at 2.02pm, an email to Mr Nguy saying, "What's Tony's SDL emails and name again?" Do you see that? ---Correct.

If we go down at the bottom - - -

THE COMMISSIONER: Just a moment. That's on the - - -

MR ENGLISH: Sorry, Chief Commissioner.

40 THE COMMISSIONER: Yes, sorry, yep.

MR ENGLISH: And then if you look down below on the left-hand side, the blue message, Mr Nguy tells you that the email address is projects@sdlprojects.com.au. Do you see that?---Yep.

I'll just go back to what you've asked, "What's Tony's SDL emails and name again?" So you must have been told before you sent this message on 16 June 2017 that Tony had access to an SDL email address, would you agree?---Yes.

10 Yeah, 'cause you've used the word "again". See what I'm saying?---Yes.

Yeah, okay, if we can just scroll to the next page, please. And then you've said, again 16 June 2017, this time at 2.18pm, "What's her name?" Do you see that?---Yep.

So you must have been again told prior to sending this message that he was using the name of a female in connection with that SDL email account, correct?---Correct.

20 Yep. And then you can see Mr Nguy says, "You should know your staff. Getting too big, Joanne." Do you see that?---Yep.

Yeah, okay. So if we can just go back to the transcript, please, this time at page 355, yesterday's transcript. That's page 355, is it? Yeah. So I was asking you some questions about your knowledge about that email address and the name Joanne Breen.---Yep.

You can see there they've got line numbers down the side of the page?---Yep.

30

And you can see 10, 20, 30. At about line 25 I ask you the question, "All right. And you said in answer to one of the questions before that you thought Tony was going to hire someone or he'd hired someone called Joanne?"---Yep.

And your answer was "Yeah, no, no, I didn't, when I saw the name Joanne that popped out. I don't know when the first email I sort of see with the Joanne Breen on it. I said I'm pretty sure I recall saying, 'Who's this using our email?' and so Monty sort of jokingly said, 'That's Tony.'"---Yep.

40

Is that true?---No, it's not true but I did at that time think that that was the case, there was another person there.

Well, what part of it's not true, that answer that you gave yesterday that I just took you to?---That we were going to hire someone else, yep.

Okay. But it's also not true, is it, that you just saw an email and Tony using it and you thought, "Hey, what's going on here?" That's not true either, is it?---No, that's not true.

10

Yeah. Just tell me, it's the case, isn't it, that you agreed with Mr Nguy and Mr Nguyen that this was how you were going to get council work, and you were going to do that by giving Mr Nguyen access to the SDL Projects email?---Correct.

And he was going to use a name that he could then use to communicate with himself in a covert manner to help you get jobs at SDL. That's right, isn't it?---Correct.

20 And you knew that was the system, you referred to it before, because that's what Constructicon was doing as well, correct?---Correct.

If that transcript can come down, please.

THE COMMISSIONER: Just a moment, please.

MR ENGLISH: I'm sorry.

30 THE COMMISSIONER: Can you just put it up again? Why did you give that answer yesterday the way it's recorded on that transcript?---Because, so if I could explain. I, I wasn't comfortable from the start that Tony was going to be using my email all the time. I did wanted someone else - I mean, I, I was sort of looking at growing my company anyway. I was looking at hiring someone.

Well, that's not an answer to the question I just asked you. The question I asked you is why you gave that answer that appears on page - - -

40 MR ENGLISH: 355, Commissioner.

THE COMMISSIONER: - - - 355, line 25 to 30. Why did you give that answer?---That I, I was actually looking at hiring someone, Commissioner. I didn't, I wasn't comfortable with Tony using that email and there might be a previous email that Joanne sent to me when I was a bit surprised as well. So that's why I asked what's the name of it again. I'm not sure that was the first email that I got from Joanne.

Mmm, all right.

10 MR ENGLISH: You said you weren't comfortable with Tony using the name Joanne on behalf of SDL. Is that your evidence?---Yep.

Why then did you include the name Joanne in the documents you submitted to the council that I took you to yesterday saying that this person Joanne was a staff member?---I was naive, greedy. So, yeah, yeah.

Whose idea was it to give Tony access to the email address at SDL Projects and for him to use this name, Joanne? Whose idea was that?---I would say it was a collective idea but Joanne, that's not the name that I would come up
20 with.

When you say it was a collective idea, you didn't all sit down in a room together and at once have the same idea instantaneously.---No.

Did someone first suggest it to you?---I actually don't know who came up with that idea. It was an email that popped up and this is where probably I was answering that first time I seen that email.

There's a company called - Commissioner, can that be taken off the screen?
30

THE COMMISSIONER: Yes.

MR ENGLISH: Thank you. There's a company called Remtech.---Correct, yeah.

Did you used to work for Remtech?---I was sort of in the, in the interim, like, in between.

Can exhibit 45, volume 5.1, page 324 please be brought on the screen?
40 Page 324, please. This, as you can see on the screen, is a template for Remtech, Remedial Technologies Australia Pty Ltd. Do you see that?

---Yep.

Is that the company you worked for for a little bit?---Yep.

This document was found on Mr Nguyen's computer. Do you know how he might have obtained this document?---So, I'm pretty sure I have all the Remtech document in my server, Dropbox, which Monty and Tony would have had access to.

10 All right, so you had it stored on an online server, did you?---Yeah, Dropbox, yeah.

Okay. And you'd given them access, both Mr Nguy and Mr Nguyen, to that server?---Not, not all the folder but it was a, I think there was a specific folder we created, SDL Civil or something like that, yep.

Okay, so you created a folder. And what type of documents were kept in that shared folder between the three of you?---Probably templates. Just past projects.

20

Were there templates for any other companies other than Remtech and SDL and Constructicon kept in that folder?---Potentially Innocon there as well.

Innocon as well?---Yeah.

And why were those documents of companies not belonging to yourself or Mr Nguy kept in that shared online folder?---I mean, some, we wanted use of some of the templates from there, like tender documents, tender templates and whatnot.

30

For what purpose did you want to use them?---Tendering.

But like real tenders or dummy tenders?---Real tender as well as the dummy tenders.

Okay, so when did you stop working for Remtech?---Oh, I'm not sure. Probably '16, 2016.

40 Okay. So how could you submit a real tender on behalf of Remtech after that point in time?---Oh, I, I don't think I submitted any tender on behalf of Remtech. They submitted their own tender.

Remtech submitted its own tender?---Yeah, I'm pretty sure they submitted one sort of public tender.

All right. Perhaps if we can go to volume 5.2, page 1. That's Exhibit 46. All right, so this is an email from a Mr Nwiran at Remtech.---Yep.

And he's apparently the Business Development Manager. Did you know - - -?---Yep, I know Nour, yep.

10

Okay. And you're copied into this email that Mr Nwiran is sending to Mr Nguyen.---Yep.

And it reads, "Tony, take two. Let me know if it works this time round." And if you scroll down two pages, you can see there's an expression of interest document that is included. It's quite a lengthy document so we won't go through it. But if we can go back to the first page, please. Why is it there that you've been assigned an email address at Remtech to be copied into that email?---I think I was still sort of working as a consultant for them.

20

Really?---Yes.

You just gave evidence a moment ago you think you finished up with them in 2016.---No, that's what I thought, like, obviously I still have an email address. Well - - -

Okay, what type of consultancy work were you doing for Remtech in May 2017?---Well, some estimating and sort of doing safety documentation sort of stuff.

30

All right.---Yep.

Do you remember this expression of interest, this particular one here? If we can just go down to page 3 again, please. Maybe if we go down to page 6. So this is just a company introduction. It's not an expression of interest, although it said it was. It's just saying we're a company and it says, "We'd like to take this opportunity to introduce Remtech to your organisation and express our interest in providing our services for your consideration in the near future." Do you see that?---Yep.

40

And is that genuine? To your understanding, did Mr Nwiran submit this with the expectation he might receive, or Remtech might receive work from Inner West Council?---Yeah, I think that was the genuine intention, yeah.

Okay. Are you sure Remtech wasn't just used by you, Mr Nguy and Mr Nguyen as another company that could supply dummy bids to ensure that Constructicon and SDL would actually get the council work?---I'm not sure, I'm, I'm not sure if I use them later or - - -

10 All right. So just noting, just back to page 1 if we can, please? Just noting that email was sent at 11.20 in the morning on 30 May 2017, if we can go please to volume 18.3, page 157? This is a message between Mr Nguyen and Mr Nguy. I'm right, aren't I? That's not one of your numbers there, is it?---No, I don't think that's my number, no.

So you can see, "Do you trust Remtech?" which is asked by Mr Nguyen. Do you see that there?---Yeah.

20 He's asking that of Mr Nguy. And then over the next page, and this is also on 30/5/2017 but at 9.22 in the morning. Do you see that?---Yeah.

And then he says, "Like 100%" and then he says, "'Cause if all this turns sour, I get screwed." Do you see that? That's Mr Nguyen saying that. Do you see that?---Yeah.

And then in this conversation with Mr Nguy, he says, "You know what I mean?" Do you see that at 9.22.57am?---Yeah.

30 And then on the next page, Mr Nguy says, "Seng trusts Remtech 100%." Do you see that?---Yeah.

And I know that's not your message, you didn't write that, but it suggests, does it not, that you were involved in supplying the details of Remtech so it could be part of this dummy bidding scheme. Would you agree?---It might become that way, but I think in this, intention, initially, we just, Remtech has a capability to do some remedial works and I think I just asked them to, Tony, send, Tony, an expression of interest, yeah.

40 Okay. If you can go to page 181 of that same volume, please? Now, this is the following day on 1 June 2017 in the morning at 10.24 or thereabouts? ---Yeah.

And you can see if we go up a bit more the last message on the page says, and this is Mr Nguy telling Mr Nguyen, "I got access to admin@remtech." Do you see that?---Yeah.

Sorry, if we go up? No, this should be page 181. There we go. Right to the bottom there. If we can scroll up a little bit, so we can see the time stamp, please, at 4.24.22? Now, did Mr Nguy have any connections at Remtech - - -?---No.

10

- - - to your knowledge?---Just through myself, that he knows Nour.

Okay. Did you assist him in getting the access to admin@remtech, Mr Nguy, that is?---I, I do not recall. I do not recall. I can't remember at all.

To your understanding would Mr Nguy have known Mr Nwiran well enough to say, "Give me the admin codes to your email address"?---No.

20 So it probably came through you, didn't it?---No. I, I don't, I don't remember giving that email address at all.

If we go to the next page, please, page 182. So this is Mr Nguy saying "and admin@sdlprojects". So now he's got, this is Mr Nguy saying he's got access to another email address at SDL Projects. Do you see that?---Yep.

And that obviously must have come from you, correct?---It must have but I can't recall sort of giving him that email because he's got his own email, yeah.

30 Sure. And then you can see Mr Nguyen responds "LOL." Do you see that?---Yes.

Laugh out loud. You know that stands for laugh out loud?---Yep.

They seem to think it's funny, would you agree?---Oh - - -

40 Well, it's not you in this conversation.---Yeah. So I, I'm not sure. So admin@remtech and admin@sdl, I'm not, I can't recall giving them those access.

And then if we scroll down the page a bit - - -

THE COMMISSIONER: Just a moment there. Do you know where else he could have got it from if it wasn't from you?---I mean, the password that admin, SDL admin, like admin for, we use the Google server. The password is pretty standard for all our sort of password. So, I, I really don't know but I just can't recall giving him admin@sdlproject or admin@remtech.

10 MR ENGLISH: You're not honestly suggesting to the Chief Commissioner's question that he guessed, that is Mr Nguy just guessed a generic password from the Google access, are you?---No. I'm not suggesting, no, I'm not suggesting that but the, the, I'm not suggesting that but I can't just recall giving him that email address.

If you scroll down the page a little bit, please, you can see Mr Nguyen says to Mr Nguy at 10.24.40, "Maybe give me access as well." Do you see that? ---Yep,

20 So he's obviously wanting access to these email addresses that have been discussed. Would you agree?---Yep.

And then if we go to the next page, please. He says they'll speak more about it on Saturday and then if you go down - yeah. At the bottom of the page there, a message at 10.25.04 again on 1 June 2017, "I have a plan." Do you see that that's Mr Nguyen saying that to Mr Nguy. Do you see that? ---Yep.

30 Then if you down on the next page there's another "LOL" at 10.25.05. Mr Nguy obviously thinks it's funny. Do you see that?---Yep.

He says, "Hahahahaha" at 10.25.09. So, where he says, "I have a plan" on page 183, were you ever made aware of what a plan might be at around that time, around 1 June 2017, what that plan might be that Mr Nguyen had? ---Oh, the plan would be sort of getting three or four companies that he trusts to tender for jobs.

And, what, rigging the tender process?---Yeah. Giving to, giving a tender to who he wants to give it to.

So, if he had enough companies that all quoted for job he could then rig it so that he could give the job to the company he wanted to be successful, is that right?---Correct.

And if we can go, please, to volume 18.23, page 46, this is a chat between yourself, that's your number 654, ending in 654?---Correct.

And then there's Mr Nguy, 128, and Mr Nguyen's ending in 479. So on this page, and this is a chat later on 21 March 2018. And you can see that Mr
10 Nguyen says at 9.04.02, "Hey, guys. I got another company to set up to use that I have control over." Do you see that?---Yep.

And then he says, "Like Constructicon." Do you see that?---Yep.

And then it goes the next page, "What do you guys think?" And that's a question asked by Mr Nguyen, and Mr Nguy then says, "What you mean?" and then he refers to this company, he includes an attachment, that is Mr Nguyen, of Marble Arch. Did you see that?---Yep.

20 And he says, "Like another legit company we can use for pricing." Do you see that?---Yep.

And he says, "Setting us up for PLR." Do you see that?---Yep.

What's PLR?---I'm not sure. I don't know what PLR is.

All right. And then if you go to the next page, please. So still on 21 March 2018, this time at 9.08.05. This is Mr Nguyen, "Trying to have full control of price submission." Do you see that?---Yep.

30 So that's what you just spoke about in your evidence earlier, wasn't it, where he's trying to make sure he's got control of the entire tender?
---Correct.

There's some more questions about whether Marble Arch is operating. Over the next page - and in fairness to you, Mr Laphai, this is a conversation that's primarily occurring, if not at all, between Mr Nguyen and Mr Nguy.
---I was a part of the group chat.

40 You're part of the group chat.---Yeah.

But you're not adding a thread at the moment. Do you know what I'm saying? You're not putting a message in in this, in what we've looked at.
---No.

You see down the bottom it says, page 49, "Need to discuss with you guys about how to make this all work." Do you see that?---Yep.

And then the next page, please. Over to page 50. "Let's discuss Friday," says Mr Nguy, "when you're in the office." And then Mr Nguyen says,
10 "The idea is to have control over price submission to maximise our gains."
Do you see that?---Yep.

Do you remember having a discussion on a Friday in the office in March of 2018 with Mr Nguyen and Mr Nguy about these matters?---I mean, I think Tony did visit our warehouse once or twice, so - - -

Yeah.---Yep.

Okay. Now, then it says, "Nima is setting the funding budget." Do you see
20 that?---Yep.

Do you know who Nima was?---I, um - - -

It's a message from Mr Nguyen.---Yeah, I think Nima is either Downer or Transport.

Okay.---Yep.

You ever met Nima?---I think one time on a site inspection at Victoria
30 Street.

Okay. And then there's another message, same day, 9.10. "I'm setting up," it says, "the who Abdal goes out to." Do you see that? "Abduwal".---Yep.

Did you ever meet anyone called Abdal or Abduwal?---I think Abdal might be a Downer, from Victoria Station. When we did the site work, tender meeting, he was there.

Okay. And then page 51, "If we have control over the three companies that
40 again Abduwal goes out to" - so I'll just wait. Page 51, please. Yeah, top of the page there, 9.11.22. "If we have control over the three companies that

Abduwal goes out to, it's going to go off." Do you see that? "Gotcha." Do you see that?---Yep.

So to your memory, this was about a Transport job, was it?---Correct.

All right. Now, can I ask you this. If a job went to Constructicon or a job went to SDL, would you and Mr Nguy share the profits either way, and I mean a council or a Transport job?---Yeah. I think that instance only happened once, I believe, in the Seaview project where - - -

10

Seaview project?---Yeah. Where I think Constructicon got a job but he used it obviously or SDL resources to do the job, yeah.

Okay. All right. I'll come back to that.---Yeah. And sharing profits, I think all I sort of give them was, so we got, like, use accounting software where we, we track jobs, how much they cost. So I think all I gave him was the actual cost, the printout of the Xero, yeah.

20 Sorry? Say that again? All you gave him was?---The, the cost allocated to that particular job, yeah.

Okay. And this is for the Seaview job?---That's correct, yeah.

Okay. If that can be taken down off the screen, please? In relation to IWC jobs, you had an arrangement to pay a kickback to Mr Nguyen. Is that right?---Yeah, I'm pretty sure, yeah. Yeah. So he, he wanted something and I agreed to it, yeah.

30 Can you tell the Chief Commissioner how it came about that that agreement was struck?---I think it's mainly when we get to the variations, that he, he would approve it and then he might say, put 10 for me or 15 for me on the variation prices. But smaller jobs, I think he just want us to be in the door.

40 What about anything, did he say or did you agree that there would be a percentage of the contract sum paid to Mr Nguyen as opposed to the variations?---There might, there might be, there might be instances, but I'm not sure any jobs where, 'cause it's, it's hard to sort of deal with contract sum because we're obviously pricing, I sort of didn't, wasn't really interested in the smaller job. I just wanted a public tender. So public tender was hard because it's, it's a, yeah, I got to get a market coverage and there's a cost that I've got to submit, so, and I'm not sure how, how much

assistance he would have provide on the public tender, as well. I don't, I think he said he can't, he can't really do much with the public tender.

Did you pay Mr Nguyen money pursuant to this arrangement by way of, as one might say colloquially, a kickback?---Yes, a, a couple of time, I, I believe, yeah.

A couple of times. How much on each occasion do you believe you paid Mr Nguyen?---It was, the, the, the one that I remember was I think 15,000.

10

And just tell the Chief Commissioner about that payment. What do you recall about it?---It might be for Bridgewater variations or rotunda or one of the job.

IWC jobs?---Yes.

And was it cash or was it an EFT? How did you pay it?---It was cash. He wanted cash, yeah.

20 Mr Nguyen wanted cash?---Yeah.

And so what happened? You met with him and you gave it to him, did you?---I think it was one of the job site that I met him.

Okay. And, what, was it in a bag or how did you hand it over?---I think just on the white envelope bag, yeah.

Okay. You said there were a couple. What do you remember about the second occasion?---Second occasion was, I believe is 7,000 but I don't

30

know if I gave it to him or I gave it to Monty to pass it on to him.

And do you remember what years those payments were made?---It would be sort of 2018, yeah.

Okay. So the Bridgewater job, just, or the Pioneers job occurred in 2018, early 2018, is that right, and the Bridgewater job was the middle of 2018. Is that right?---Correct.

40 Okay. So around that time. And what about the 7,000? What was that in relation to, as best you recall?---I think it was Bridgewater ones, so, yeah.

All right. So I wonder if Exhibit 48, volume 5.4, page 3 can be brought back on the screen, please? So this is what I took you to yesterday. This was the Steel Park tender submission, 13 February 2019.---Yep.

And if we go down, please, to page 6. It says, “In submitting this tender the tenderer warrants it has not,” and just focus on B if you can, please, “offered, given or agreed to give to any person any gift or consideration of any kind as an inducement or a reward for any action in relation to the RFT or any other contract with council.” Do you see that?---Yes.

10

And you signed that as true on the next page. So that was a false statement by you, wasn't it?---Correct.

And knowingly false at the time, correct? You knew it to be false, didn't you?---Yeah. I knew it to be wrong, yep.

If we can go, please, to exhibit 45, volume 5.1, page 49. Do you recognise this document?---Yes, I do.

20 Is it a spreadsheet prepared by you?---I think it's an Excel spreadsheet with two tabs on it. One is potentially Constructicon and one is SDL contract.

So you think there might be another tab to this?---I'm, I'm pretty sure. When I, that's what I recall.

What's the information, can you assist with what - there's a large table and a smaller table down the bottom. What's the information in the larger table? Can you assist with that, please?---That's the jobs that we done for Inner West Council.

30

When you say “we”, you mean SDL?---SDL but, except for I think Seaview got (not transcribable)

Because that's a Constructicon job, wasn't it?---Yes, correct.

And what about Maitland Train? That's not a job that was done for Inner West Council, is it?---No, no, it's not.

40 And then there's the total amount invoiced. Do you see the next column along from Project ID?---Yep.

“Seaview 102,083”, to your understanding is that Constructicon invoiced or is that the amount that you invoiced Constructicon?---I believe that’s - - -

And when I say “you” I mean SDL.---Yeah. I believe it’s SDL invoicing Constructicon.

And then there’s the start and finish dates, the total costs, you can see net profit and then “TN”.---Yep.

10 Is “TN” Tony Nguyen?---Correct.

And are these payments that were to be made to Mr Nguyen that are then tallied up in bold?---Correct.

And where it says “percentage of net profit”, is that the percentage of profit that was to be paid to Mr Nguyen?---Yeah. I think it’s just a formula sort of, yeah.

20 That’s very generous. If you look at Seaview it says he’s to be paid 67% of net profit.---Oh, Seaview wasn’t my job so I think it’s just a formula that - I, I don’t know what the background formula is but, yeah, it looks - - -

So, that figure of 62,540.96, was that paid to Mr Nguyen?---No.

30 So, what, according to this spreadsheet there were more moneys he was owed that he wasn’t actually paid?---I, initially I think he said he wanted to put a sort of, a, like, a reserve amount for his, for us to build his house, save it and then he didn’t want any more cash because I think he said he had enough cash. So I, I don’t think we paid him. We, we were just sort of tallying up.

It says here “Bridgewater”. The item numbers start again under the black line. Do you see that?---Correct.

What does the black line signify?---I think just the time, the year.

Oh, okay.---Yep.

40 So they’re 2019 jobs, are they, where it recommences at Bridgewater Park, or Bridgewater?---Yeah, because I think the 2017-18 financial year, so - - -

Okay. And then how does one understand the smaller table? What is that showing?---Oh, I'm not sure.

But you prepared this table, didn't you?---No.

Who prepared the table?---It might be a combination, so Monty and myself.

So is your evidence that it definitely wasn't you who prepared this table?
---No, I'm not sure, but some of the input there it looks like mine, like sort
10 of the jobs that are relating to the phones, the price there. So it comes from
me, the information, but I didn't prepare that.

Okay. Just going down those items in the smaller table.---Yep.

Where it says "withdrawn", could that possibly be a reference to cash paid
to Mr Nguyen?---No, it's, it's sort of putting a reserve for him to, when he
actually built his duplex.

Okay. So this is moneys accrued to Mr Nguyen, is it?---Correct.
20

Okay. But "survey", what does "survey" mean?---That's doing survey at
his place.

Was that actually work, was that actually a cost that was incurred?---Yes.

Okay, and what's "ice cream"?---That's also actual cost.

That's a lot of ice cream. What happened there?---I think it was a power cut
off in one of the job.
30

Okay. So there was some damaged ice cream that had to be replaced, was
there?---Correct.

And a phone for 970. What's that, 970?---It's a phone that we bought for
him, yep.

Okay, for what purpose?---He needed another phone apart from the council
phone.

40 Is this so you could talk about the system, about bidding and everything
with him?---Correct.

All right. And then “recharge”, is that phone recharge on two occasions?
---Correct.

And “lotto tickets”. Were lotto tickets bought for Tony?---I believe so, yep.

Okay. So is it not possible that you might have paid Mr Nguyen, either you
or Monty, more money in cash than the 22,000 you referenced?---I, like, I
don’t know how much the Seaview, I don’t know whether he got money for
10 Seaview because I didn’t pay him for the Seaview project. Maitland
projects - - -

Did you pay him something for Maitland?---I think so, yeah, about \$10,000
for Maitland project, sorry, yeah.

Okay. And what was that for? Was that in return for him arranging for
SDL to be the sub-subcontractor on the Maitland job?---Correct, yeah.

Okay. So that was a kickback to Mr Nguyen?---Yeah, finder fees for him.
20 Finder fee?---Yeah.

Okay. Was there any occasion when Mr Nguyen said to you, “You paid me
too little. You were meant to pay me more in cash”? Did he complain
you’d underpaid him on any occasion?---No.

No, okay.---I mean, in fact he, he has, he has enough cash.

He said he had enough?---Yeah.
30

Okay. If we can go, please, to volume 18.23, page 34. Actually, if we can
start at page 33, please. You can see there this is again the group chat
between the three of you, Mr Nguy, Mr Nguyen and yourself.---Yep.

And on 6 March 2018 Mr Nguy sends a message with an attachment we’ll
come to. It says, “Survey works for Matrville. Happy to go ahead, Tony.”
Do you see that? And if we go down the page you can see that attachment,
the survey peg-out?---Yep.

40 If we just go down the page, please. You can see there, and it’s about a
house in Matrville. Do you see that?---Yep.

Whose house did you understand that is? And don't repeat the address if you can, or don't state the address.---I believe that's Tony's house.

That's where he lives, was it, or an investment property?---I don't know where he, I, I don't know where he actually live, but, yeah.

And so is this the survey that was referable on the small spreadsheet we just saw a moment ago, the cost for the survey?---I believe so, yes.

10

Can we go down to page 35, please? This is the following page and you can see, I think you say "Fuck" and then it goes down, "It getting cheaper." Do you see that?---Yep.

Is that a reference to the survey costs?---Yes.

And then you get down the bottom of the page, Mr Nguyen says, "Yeah, go ahead." Do you see that?---Yep.

20

So if we just go one more page down, please. Mr Nguyen says, "How are you paying for it, or how am I paying for it?" and then Mr Nguy says, "Pay through SDL and we'll keep a tally with the spreadsheet." Do you see that?---Yep.

"Happy with that, Seng." Do you see that?---Yep, yep.

And then the next page you say, "Yep," and that's on page 37. So that's consistent with the evidence you just gave about that spreadsheet we saw that's been created and tallied for expenses for Tony to use, is that right?

30

---Correct.

If we go to the next page, 38, please. Yeah, here. So this is you saying, "I will create tracking on zero." Do you see that?---Yep.

And then Mr Nguy says, "Yeah, 1803." What's 1803?---It's a job number.

A job number, okay. And this is on 6 March again. If we can go down to page 39, please. Then Mr Nguyen says, "I don't need to look at zero. We just need to be open and understand what each of us want from this set-up and how to get there. You trust me to get you the work, I trust you in

40

coming up with a cost price and executing the work (to a point).” Do you see that?---Yep.

And then he says again, “i.e. I understand you want to grow your business. I want to build my house and Monty want to either build or invest. Three different goals but all have one common factor, dollar signs.” Do you see that?---Yep.

And you write to the bottom, “Okay”.---Yep.

10

So is that right? Your common factor in this was building your business and earning money?---Correct.

If that can come off the screen, please, and if exhibit 49, volume 5.5, can be brought up. So this is a spreadsheet that’s been prepared by the Commission that examines the invoices issued by SDL Project Solutions and payments received by Inner West Council. So, for example, you can see the first entry there on 14 December 2017. Do you see that?---Yep.

20 And it references invoice number 080465. Do you see that?---Yep.

And then it’s got page reference, so if we can go just go to page 44 quickly. You’ll see there that’s that invoice number 080465. Do you see that?---Yep.

For \$21,813. And if we go back to page 3, please. You can see that’s where that payment comes into the bank account.---Correct.

30 So if we can go to page 1 again, please. And so that analysis has determined that SDL Project Solutions was paid \$1,606,464.24 by Inner West Council and that includes GST. Have you had an opportunity to examine this spreadsheet before today?---No.

Okay. Have you got any reason to doubt why that figure might not be correct?---I think over sort of two and a half/three years probably that’s how much work we done for Inner West, yeah.

40 Yeah. All right. Can MFI 6 please be brought on the screen. Chief Commissioner, I might just give a hard copy of this as well to the witness. Do you still have a copy of MFI 6?

THE COMMISSIONER: I do.

MR ENGLISH: I'll just hand one to Mr Laphai. So this is a table that seeks to summarise all the jobs that were awarded to SDL Project Solutions by Inner West Council.---Yep.

Over the years 2017 to 2019. Have you had an opportunity to look at this?
---Yes, I have, yeah.

10 Now, just the right-hand column says "money to Tony Nguyen". If we put that to one side. Have you had an opportunity to check whether this table is accurate insofar as it identifies the jobs that were awarded to SDL Project Solutions and the amount paid?---I would say so. I mean apart from, yep, the Steel Park.

I'll come to that in a moment.---Yeah.

20 But you haven't noticed any discrepancy in there about the jobs from Inner West Council. I'm not talking about the moneys paid to Tony.---Yeah. It's around about right, yep.

Yeah. Okay. All right. I just want to go through just a couple of items here with you. Item 1 is the Petersham admin building level 2 kitchen upgrade.
---Yep.

30 If we can go, please, to exhibit 46, volume 5.2, page 216. Page 216. Okay. So here's an email from Joanne Breen using projects@sdlprojects.com.au, who you've agreed is actually Tony Nguyen, and he's saying, "Please find a quote submission for the kitchen upgrade works at Petersham building." Do you see that?---Yep.

And if we go to the next page 217 there you can see the quote. Now, do you recall this job?---Yes.

Did you draft this quote or did Tony?---Oh, I definitely costed the job but I'm not sure who drafted it to be honest, yeah.

40 Okay. So this is a job for 37,000 so it's below 150 so it doesn't have to go out to public tender. Yeah, you agree?---Yep.

So how would you know how to - what discussions did you have with Tony about how to cost these jobs and how to price them to ensure that you would get them, that is, SDL would get them?---I, I costed the job by obviously getting all my supplier to give me a price and given the actual cost - - -

Did that include a margin for SDL?---No. No margin. Yeah.

So just straight bottom cost?---Straight, this is how much item will cost, yeah.

10

Okay. And then what would you do then?---And then I'd leave it up to, to him to submit it or come back to me with submit it.

All right. So when you say leave it up to him to submit it, what, he might draft the quote or he might fill in part of the quote, might he?---Yeah.

That's Tony?---Yeah.

20 And, otherwise, what? He'd give you, he'd tell you how much you should quote for the job?---Not sure he's actually told me how much I should quote. I usually just, he just ask me for pure cost usually, like, to price the job, yeah.

Okay. But at some stage, an amount, as you can see here, for example, on page 217, got submitted to council?---Yeah.

30 And would that be an amount for jobs that you'd won, you'd agreed in advance with Mr Nguyen how much to charge?---Yes. So, I mean, for smaller jobs, I think I've sort of probably told him that, build a margin or 10 or 15% I'm comfortable with that, yeah.

What about paying him a fee? Didn't you have to include something extra for him?---Not, not for smaller, this is, I think this is probably one of the first jobs that he's trying to get us in, so I don't think we were agreeing on anything at this stage, yeah.

40 Okay. All right. So this is just with a standard builder's margin, you think?---I, I, I believe so, yes. I think we actually, I don't know if we actually make any money.

Can volume 18.23, page 12, be brought up, please? Just before we go to that, this quote, I should have asked you this before, I'm sorry. This was for both level 2 and level 3. Do you recall it happening that level 3 dropped away and you only went ahead with level 2?---Yes, I recall that, yeah.

10 Okay. So here you can see on the screen now, which is page 12 of volume 18.23, you say, this is this group chat between yourself, Mr Nguy and Mr Nguyen, "Are we pricing the entry to the SSER room?" What was the SSER room? What were you referring to there?---I think there is, like, a server, I think it's, probably stand for server room, yeah.

And then that's on 28 September 2017. If you skip down two messages, there's a message at 11.33am and it's Mr Nguyen saying, "Hey, Seng. I put down 16,440 for the level 2 kitchen." Do you see that?---Yeah.

Now, 16,440, if we just go back, please, to volume 5.2, that's Exhibit 46, page 217, you see that 16,440 there for the level 2 works?---Yeah.

20 So does that suggest that Mr Nguyen drafted this quote? He's saying he put that down?---I would say so, yeah, but I, I, I do remember pricing this job up, with talking to kitchen suppliers and going to site, measuring it and all that sort of stuff, yeah.

All right. Well, it seems either way, the instruction for that amount's come from Mr Nguyen. Would you agree with that?---Yes.

The next job, item 2 on MFI 6, you've got it in front of you in hard copy, so we can just follow, is the Pioneers Memorial Park rotunda remediation. You remember that job?---Yeah.

30 Again, if volume 5.2, Exhibit 46, page 245 can come up, please? I think that's - again, this is an email on this time 9 January 2018 from Joanne Breen to Tony at the council. Do you see that saying, "Here is our submission quotation for Pioneer Memorial Park rotunda remediation works." Do you see that?---Yep.

And if we go down two pages to page 247 you can see the quote and the total cost ex GST is \$132,620. Do you see that?---Yep.

40 Do you remember pricing this up?---Sorry, where is the price?

Sorry, it should go one more page down. I'm sorry. There you go. Do you remember pricing that yourself?---I remember pricing the job, yes.

Why was it then if you were pricing the job that Tony is sending to himself using the Joanne Breen email address?---I guess he would have more control over it.

Control over what?---The prices, I guess.

10 But isn't it the case you've got to agree the prices before you send the email with the quote, isn't that right?---Yes.

So what's the point of him sending the email from Joanne once the price is settled? Why couldn't you just do that?---I can't answer that. I, I'm not sure. It's just, it was easier for him to send it to himself, I guess.

Well, how would he get the quote, Mr Nguyen, to send it to himself? Was it kept in the share file that you spoke of earlier?---I'm not sure these templates are in a share file, yeah.

20

Well, if it's easier for him he's got to get it somehow and then send it to himself.---Correct. The template - - -

If you were drafting the quote, isn't it easier for you just to send it to Mr - - - ?---No. I wasn't drafting this. I, I don't think I was drafting this. I priced the job as in priced it on the estimating software but not actually drafting the submission.

30

Oh, so he's prepared the quote, you think, and then sent it to himself?---I, I believe so, yes.

Now, if you go back to MFI 6, the table, it says the variations for this job were \$44,308. Do you see that?---Yep.

Would those have been inflated, those variations?---I, I, I'm not sure it's the 2 and 5 are together because they, they both, they're both for the same jobs, number 2 and number 5.

40

Yeah, that's right. But they were broken up at least insofar as invoicing was concerned.---Okay.

And they had separate quotes.---Okay.

Do you see that?---Yep.

So just come back to the question, item number 2, 44,000 for variations for the rotunda remediation, would that have been inflated?---Yes.

And your evidence was that the variations were inflated so Tony could be paid. Is that right?---Correct, yeah.

10

Do you know by what percentage the variations would ordinarily, for IWC work, would have been inflated?---Oh, well, depending on what he can sort of push it, yeah.

So he would just tell you how much it should be inflated to?---Correct.

That's Tony, okay. Item number 3, if the quote can please be brought up, exhibit 47, which is volume 5.3, page 2. Again, this is a Joanne Breen email.---Yep.

20

"Please find attached quotation for the Petersham admin building level 3" and if you go down a page you can see the quotation begins and it's dated 16 February 2018 and over the page you can see the amount quoted, 23,324.50. Again, given this has come from the Joanne Breen email address, do you have a recollection of drafting this quote?---No.

So this might have been another quote drafted by Tony?---Potentially, yeah.

Now, the remainder of the items where there was a quote on MFI 6 - - -?

30

---The price, the price is different - - -

Sorry.---Sorry. The price is different between the contract value and the actual quote, so I'm not sure what happened there.

That's because only - the bar didn't go ahead, did it? Level 3 never went ahead.---Oh, yeah, that's right. That's correct, yep.

Yeah.---Correct.

40

So if we can just go, please, just so I can show you that, if we can go to page 8 of the same volume. Here's the memorandum whereby Mr Nguyen

accepts SDL, and I appreciate this is an internal document at Inner West Council, but you can see the only amount that's been accepted is that lesser amount for the level 2 works, do you see that, of 13,454?---Yep. Yep.

Now, just MFI 6. The rest of the quotes are either signed by you or there's no signature. On two occasions there's no signature. I might just show you those ones where there's no signature and you can tell me whether you think you drafted those quotes or Mr Nguyen might have. Is that okay?---That's fine, yep.

10

Okay, so Exhibit 47, please, which is volume 5.3, page 48. And this is item number 5, the concrete slab remediation on MFI 6. So here - and if we go to the next page, yeah, you can see that's the work for \$39,300 is the quote. Do you recall preparing that quote for that job?---I recall getting subbie prices and all the costing for it but not, I don't recall sort of preparing the quote.

So that might have been prepared by Tony again, might it?---Potentially, yeah.

20

And one more, which is the next item, item 6. Lambert - sorry.---'Cause I think even the, the last line is, is not - is it electrical, electrical upgrade works?

Yeah, that's right. It's been copied/pasted probably from the previous job, which was the electrical works, I think.---Okay.

This is for the slab. If we go up, can we go up, yeah, see, "slab remediation", you're right there, Mr Laphai.---Yeah.

30

THE COMMISSIONER: Just a moment, just a moment. Yes.

MR ENGLISH: Thank you, Commissioner. So item 6 is the Lambert Park toilet block upgrade.---Correct.

40

Can we go, please, to page 69 of that volume? This is another one where there's not an email and it's - if we go to the next page, or the next two pages, there's no signature on the quote. So the quote was for \$131,162.70 ex GST. Do you recall preparing that quote?---That's the pricing sort of schedule that I, I recall sort of pricing the job up, but not the, the quote itself.

Okay, so it might have been Tony again?---Did you say there's no email?
Like, is there email?

I can't find an email. I can't show you an email, I'm sorry.---Okay, yeah,
sorry.

So that might have been Tony? You don't have a recollection?---No, I
don't have recollection.

10

Okay, and I'll just contrast this with item number 4, which if we can go to
page 23, please. This is where you've sent the email to Tony, saying,
"Thanks for the opportunity to tender. Attached is the proposal." Do you
see that?---Yep.

And this is for the electrical works at Pioneer Park.---Yep.

And if we go down, scroll down, please. Again, again. There's the quote.
---Yep.

20

And if we go to the next page, which I believe should be page 27. Oh, no,
sorry, it's not signed by you but there's an email showing that it came from
you.---Yep.

Do you remember preparing this quote?---Yes.

Okay. So if you've sent an email with the quote it's likely that you drafted
the quote yourself. Is that right?---Yes.

30 Okay. If we can go, please - oh, well, if you can look at item 7 on MFI 6
that's the Bridgewater Park amenity block.---Yep.

The quote can be found at page 117 of that volume 5.3.---It's a public
tender, yeah.

Yeah, that's right. It's that larger format.---Yep.

40 And is this a quote that you drafted yourself? If we go to the next page you
can see it's signed, the cover letter is signed by you.---Yeah, tender
packages.

That's you.---Yep.

Okay. Can we go to page 272, please. So this is a form that says project practical completion and it's talking about a handover inspection on 21 September 2018. Do you see that?---Yep.

And were you there for that handover inspection?---I don't recall attending the PC inspection, no. I think, I think it might be with Monty because he run that job.

10

Well, if you have a look at the names.---Yeah.

It says Tony Nguyen was there. Lojine Frost, do you know who that was? ---That's I think Tony sort of work colleague.

Yeah. It says Zoe Jenkins. Did you ever meet Zoe Jenkins?---Yes, I have met her.

And she was the architect for the project, was she?---Correct.

20

Then it says you're there on 21 September 2018. Do you have a recollection of that?---Not remember attending the PC but I must have because I'm on attendee list so - - -

Well, that's an assumption you're making, is it?---Yeah.

Okay. Because it says Joanne Breen was there, correct?---That's right.

Joanne Breen wasn't there on 21 September 2018, was she?---No.

30

So I just want you to, I don't want you to make an assumption. I want you to, the best you can recall - - -?---I can't recall attending that PC, yep.

All right. And where it says there's no outstanding defects for that job, do you remember that being the case?---Yes.

All right. And there was, for this job there was item 7, \$100,000 worth of variations. If you look at MFI 6 you can see that on the second page.---Yep.

40

And would those have been inflated again in accordance with Tony's instructions?---Yeah, somewhat, yep.

Okay. Now, I'm going to ask some questions about Steel Park, which might be a longer topic, Chief Commissioner. Is that a convenient time?

THE COMMISSIONER: Yes. You can step down. We'll resume after a short break of 15 minutes or so.

SHORT ADJOURNMENT

[11.29am]

10

THE COMMISSIONER: Yes. Thank you. Mr Laphai, you're still subject to the same oath you took at the commencement of your evidence to say the truth. Do you understand?---I understand.

Yes. Thank you. Yes.

20 MR ENGLISH: Thank you, Chief Commissioner. Mr Laphai, just before the break, I asked you some questions about variations and the instructions you received from Mr Nguyen to increase those variations. How did you receive those instructions from Mr Nguyen, do you recall?---Phone conversation, yeah. So he, I mean, it's, it's not just all about obviously him. He would say you put this margin, you know, obviously, also SDL margin, as well, yeah.

All right. And so you'd cost the variation work, would you?---Yeah.

And tell him what the cost was?---Correct.

30 And then he'd tell you how much you can inflate that by. Is that right?
---Correct.

And was any of that done via the share file folder that you had?---I don't, I don't think so. I think, not, not that I recall, sorry, yeah.

Okay. And were there texts to that effect or is it your recollection that it was verbal on the phone?---My recollection is verbal on the phone or sometime it might be through Monty.

40 It might be through Monty?---Yeah.

Okay. If we can take you back to, do you still have that table, MFI 9?
---Yes, I do. Yeah.

So item 9 is the Steel Park Community rooms?---Yeah.

That was a large job that went out to public tender and I showed you the first part of the documents earlier. You remember that?---Correct. Yes.

The tender submission?---Yes.

10

Okay. And you prepared the quote for that job?---We tender it, yeah. We price the job up.

Yeah, but you drafted the tender. Correct? It wasn't Mr Nguyen who drafted that tender is what I'm asking?---No, no. It's, it's, yeah, it's, public tenders are - - -

All right. And if Exhibit 48, which is volume 5.4, page 130, can be brought up on the screen, please? Just so you know, the quote submission was 13
20 February 2019, you accept that from me, that was on the document we saw earlier?---Okay.

We're now looking at some messages slightly after that. This message is on 22/3/2019?---Yeah.

So some five weeks after or so?---Yeah.

And you can see, you say, "What you think of Steel Park re-price?" Do you see that? You say that to Mr Nguy?---Yes. So I'm not sure, Monty last
30 name Nguy too, so Nguy or - - -

Nguy - - -?---Yeah, yeah, so - - -

Okay. I'll just call him Monty then.---Yeah.

You obviously had to reprice the Steel Park job. Do you remember why?
---They came back out with clarifications.

With clarifications.---Yep.

40

Right. So all tenderers had to reprice?---Yes.

Okay. And then if we go to the next page, please, page 131. You say to Monty, “Just need to come five K less than lowest.” Do you see that?
---Yep.

So what, were you waiting to be told what the lowest reprice tender was so you could beat it by 5,000?---Yeah, to my recollection I think that’s - - -

10 And then Monty says to you, this is again on 22 March 2019 at 7.58pm, “Feedback from Thomas.” And you say, “Yes.” Do you see that?---Yep.

And Thomas, that’s a reference to Mr Nguyen, isn’t it?---Correct.

Okay.---Yes.

All right. So SDL Project Solutions ended up receiving that job for Steel Park but some problems happened along the way, didn’t they, for SDL?
---Yes.

20 Can you tell the Chief Commissioner what happened?---In terms like I’ve been, that time I think Monty sort of left so I, I took over the job to run it onsite, being one of our biggest job at that time, and I sort of remember having a conversation with Tony about I wanted sort of that job to be last of our arrangement. So I just, we can still win, I think at that time I was sort of pricing other council jobs, public tenders job as well and I sort of recall Tony sort of commenting that I’m sort of putting him on a, on a very hard position and, and he will just make a decision based on that, like just that it is, you’re putting him on a very hard position.

30 THE COMMISSIONER: Sorry, a hard what?---Position, yeah. So I, and obviously I had to deliver the job so I was onsite. A few time we had sort of progress meeting where Tony wouldn’t turn up or he would cancel the meeting at the last minute. There’s a lot of, I mean this job is quite large and there’s onsite issue that would resolve so we were just going around in circle. We didn’t have any directions from council or Lojine didn’t really have the, I believe, authority to give us any instruction. She just said she’s waiting for Tony. So there was a lot of delay on the projects.

40 MR ENGLISH: All right. And was the project delivered?---Yes.

And - - -?---Delivered of as far as our scope is concerned, yeah. So at the end we had a lot of scope deletion and they just told us to finish what we can and finish up. So that was the instruction from the council.

So does that mean the original scope was broader than what you actually delivered? There were items in the original scope that you didn't actually complete, is that right?---That's correct, yep.

10 Okay. And did it run over budget?---That definitely run over like SDL budget, yes.

Okay. And did you try and issue or obtain variations to cover that budget overrun?---The, there was, so there was legitimate variations that we found. Like we found asbestos onsite. Some of the existing infrastructures from our understanding weren't as per the design. So there was legitimate variations that I was putting forward to Lojine. Lojine basically say I need to run it by Tony and she said Tony wasn't contactable or he's - - -

20 Right.---So, yeah, there was no response back so we didn't, we can't sort of continue with the work.

Is it fair to say you felt like you were getting stonewalled on the job, did you?---Yeah, so, yeah, and I requested a few sort of email meetings onsite just to finish this job off.

Yeah.---And, yeah.

30 And so perhaps if we can go, please, to Exhibit 45 which is volume 5.1, page 48. This is an email from you to Tony Nguyen, this time using his email address at RJS projects. Do you see that?---Yep.

Subject "Pay back from commission from various projects with IWC." Do you see that?---Yep.

"Tony, see attached" and attached is the spreadsheet we looked at earlier. ---Correct, yeah.

40 "As you have not helped us but actually tried to blacklist SDL during Steel Park project we have suffered loss of over 80,000. Please pay back 22 K, 22,000 of commission that you have accrued over the various projects." Do you see that?---Yep.

So is that the loss that SDL suffered on that job of Steel Park?---Yeah, potentially more, but yeah, that's about, that's, that's about the numbers that that Xero, my accounting software, was showing.

And, "Please pay back 22 K of commission that you have accrued." So that's the cash figure, is it, that you referred to earlier in your evidence, the 15 and the \$7,000, is it?---Yes. I, yeah.

10 And what about the extra money that was on your evidence sitting in that account that was to be used for his home? Did you just decide never to pay that to him?---No, we never did his house so we never, we never built his house.

But you'd made a decision by this point that you were never going to release that money to him, is that right?---Um - - -

You were never going to build his house or give him that money that had been accruing?---Yeah. I'm not sure what the formula I sort of went
20 through at that stage but I just came up with the 22 that I pay him, yeah, yeah.

Mr Nguyen described this as a blackmail email, this email that we're looking at on the screen. Would you agree with that characterisation, you were trying to blackmail him by this email? And I'm not suggesting you were for any minute, but just in fairness to you, do you agree with that characterisation?---I, I mean, it's, I'm not sure if it's a blackmail but it is a silly email. I, I - - -

30 THE COMMISSIONER: It is what?---Silly. I, I, I don't know what I was thinking. At that time, you know, no justification looking back but I lost all my, most of my employees back then, a lot of subbies are talking about SDL not getting any council jobs. I went through a bit of a rough time during that time.

MR ENGLISH: Was there an issue with SDL not paying its trades at that point?---No. We had, I mean, I have been operating since then. I have no issue, I have never gone to court or anything for unpaid payment. I always pay my bills, yeah.

40

So is it fair to say that this email - - -?---There was, there was a couple of jobs that - sorry. There was a couple of jobs that we tender during that time. as well and we, we put in a pretty comprehensive tender with, we, we looked through methodologies and the feedback that we were getting from the Inner West Council was that the performance at Steel Park was the reason that we would not be getting any more jobs. So, yeah.

10 And is it fair to say that this email that you've sent to Mr Nguyen on 5 July 2020 is a reflection - were you getting pretty desperate at the time in terms of the financial capacity of SDL to continue having accrued this loss?---Not, I wouldn't say I was desperate. I, I wasn't happy with the way it sort of ended. I, I tried to get some answers from the Inner West Council as to, feedback as to why they sort of de-scope all my works and, yeah.

THE COMMISSIONER: Sorry, you'll have to speak up. You're dropping your voice. So - - -?---So, I, I, yeah, so - sorry, what was the question? I was getting desperate, was it, or something like that?

20 MR ENGLISH: Yeah, I asked you and you said you were trying to get some feedback as to why you were getting dropped off by Inner West Council, is that right?---Yeah.

Is there something else you wanted to add to that?---No. I think I was just trying to find some answer as to why I was dropped off, yeah.

If we can go to the next page, please, which is - - -

30 THE COMMISSIONER: Sorry, does that mean that you sent this email as some form of response to being dropped off by the Inner West Council? ---No. I, I, I contacted the - the person that actually delivered scope was not Tony. That was, I think it's Vicki, someone Vicki.

I see.---So I, I asked her for some clarifications and I, I have never met Vicki and I think one of the email I sent to her was, "You, we, you've never been onsite. How did you, how did you just delete all our scope?" So, and she, I don't think she responds back.

Yes, thank you.

40 MR ENGLISH: Thank you, Chief Commissioner. If we could just go to page 49, please. You said you thought this spreadsheet might have had

another tab. My instructions are it doesn't have another tab. I might be able to bring it up in its native Excel format for you, just so you can have a look. So that's the sheet there that's at volume 5.1, page 49. Do you see that?---
Yep.

There's only the one sheet, do you see?---Yep.

Commissioner, might that get a marking? Because that's not part of the brief. We might come back to tendering that at an appropriate point.

10

THE COMMISSIONER: That can be marked MFI 11.

**#MFI-011 – ATTACHMENT TO EMAIL FROM MICHAEL VO
DATED 6 APRIL 2022**

MR ENGLISH: Thank you very much. Okay, if that document could be taken off the screen and if MFI 6 can be returned from Mr Laphai, please,
20 the hard copy version. Thanks. All right, now I just want to just quickly ask you some questions about some jobs that SDL Projects was unsuccessful for. If Exhibit 48, volume 5.4, page 180 can be brought on the screen. Here this is a Joanne Breen email to Tony Nguyen on 10 July 2017, "Ashfield Civic Centre office rearrangement". That's not a job that you ended up carrying out work for? Do you - - -?---No, we didn't but I did attend a site inspection and priced the job.

All right. If we can go down, please, to - I wonder if there's the quote just further down if we scroll down. No, there's not there. The next page on
30 182, there's another quote for Leichhardt admin building level 1. Do you see that?---Yep.

Again that's a Joanne Breen email. And if we scroll down two pages to 184, this time you can actually see the quote, 10,050 ex GST. Do you see that?---Yep.

Where there's the Joanne Breen email and a quote, is it the case that that was Mr Nguyen drafting these quotes himself or would you have drafted particularly this quote that's on the screen? Did you draft that?---I can't
40 recall drafting it.

All right, but this is pursuant to that arrangement, that system you spoke about, is it, whereby these dummy quotes would be used so the work could be given to another company, perhaps Constructicon, is that right?

---Perhaps. I, I'm not sure who did the job but I don't even remember pricing this job, to be honest.

Okay. So you've got no memory of pricing this job?---(not transcribable)
no.

- 10 Okay. You spoke about Seaview. I wonder if page 185 can be brought, that's the next page, brought on the screen. This is a message where at the bottom of the page you can see there's a reference to Seaview, "Sent the price breakdown and claris for Seaview." It might be he's - - -?---Yeah, I can see it.

And that's from 128. Is that your - no, that's Monty's phone. If you keep going down, please, you can see Monty saying there, "Our cost is 54 plus GST. Are you going to put it at 77?" Do you see that?---Yes.

- 20 And there's a discussion between, this is between Mr Nguyen and Monty.
---Was I part of this conversation?

No, you're not part of this conversation, I don't think. If you go down to page 187, please? You can see Mr Nguyen says, "Yeah, he's going to price it at 77." Do you see that?---Yes.

And he asks down the bottom of the page if Monty's happy with 23,000 for two weeks' work. Do you see that?---Yes.

- 30 Now, and then if we go down to page 189, right there. So this is 23/10/2017. Mr Nguyen says, "Okay. I'll put the quote together." Do you see that?---Yes.

And then down to page 190, please? There's a question from Mr Nguyen to Monty, "Happy with Constructicon doing the works right?" Do you see that?---Yes.

7.26. And then page 191, Monty says, "Yeah. Def needs to be Constructicon. Too suss if SDL does it." Do you see that?---Yeah.

40

“Yeah, unless Constructicon does rotunda repair.” And then there’s a question, “What’s the profit in your kitchen for Seaview?” Do you see that?---Yeah.

And then on the next page, “Not sure, hey. Just use the same rate as Petersham,” says Monty. And then Mr Nguyen says, “Just sent submission for SDL on Seaview.” And I think I’ve misled you. I said you weren’t a party to this conversation but you actually were. This is the group chat. You weren’t contributing to the conversation but you would have seen it because it’s the group chat and this is from your phone.---Okay. Yeah.

You see that?---Yeah.

So do you recall seeing that conversation around the time?---I, I recall the discussion around Monty doing the Seaview and I’m doing, I’m doing the rotunda, yes, yeah.

All right. And is that the sort of discussions you’d have with Mr Nguy and Mr Nguyen, sorry, Monty and Mr Nguyen about the system, about pricing jobs, who was going to get it, how to break it up so it didn’t look too suss? ---I, I guess, I mean, I, there, it’s a system that they had, so I didn’t sort of contribute that much, but if, if, if they said I’ll get a job, rotunda, then I, I just said yes.

Because then if we go to, so you would have, the quid pro quo was you won’t get the job for Seaview but you’ll get the rotunda instead. Is that right?---I think that’s what, I think that’s what the, yeah.

Yeah. And if we go to page 194, please? Here you can, sorry, perhaps if we just go up one? There you can see there’s another Joanne Breen email where it’s Joanne Breen to Tony Nguyen and attaching the SDL Project submission. And this is the next day on 24 October 2017. Do you see that?---Yeah.

And then just go down to page 195, please? You can see there that’s the attached quotation. Is that something you drafted?---No, I don’t think I drafted this.

So I just ask you, some other, just confirm with you. Some other jobs where SDL provided a quote but wasn’t successful was for the May Murray roof

replacement, the May Murray Centre. Do you remember that?---I, I don't think I have ever been there - - -

I'll just show you quickly, page 196, please? It's the next page.---Is there email or - - -

No, but I'm going to show you something about this because if we go down, you can see this is for May Murray Child Care Centre roof replacement. There's a quote of \$38,440 not including GST. Do you see that?---Yeah.

10

If you go down to, if we scroll down, there's another version of that quote, and then if we go down again to page 198 there's something about the metadata and it shows that Tony Nguyen was involved in creating the quote. Do you see that?---Sorry. I don't know how to interpret this.

Do you see in the middle of the page it says "Meta file path"?---Yep.

And you can see it gives you the details and says "Tony Nguyen" in the middle of the page? Do you see there?---Oh, yes.

20

Yeah. So that suggests that the author is you. Do you see that? That might just be for the quote but the last author saved by is Tony. So the last person to have, it seems, made edits to that document was Mr Nguyen. Do you see that?---Yep.

So do you have any recollection of preparing that quote for May Murray Child Care Centre?---No. I, I, no. I, I haven't attended the site. I didn't cost the job so, yeah.

30 If we go to page 214, please, of the same brief. This is a quote, Joanne Breen again, for Leichhardt admin ground floor works and if we scroll down, please.---I don't think I was cc'd in on that email.

You weren't cc'd, no. So, do you recognise this job? Did you - - -?---No.

And if we go down to the next page you can see the amount.---Yep.

So does that - - -?---I don't, I don't, I, I didn't price this job, no.

40 And you didn't prepare the quote either?---No.

Next page, 217, it refers to, if we can scroll down - oh, no, just scroll up, sorry, just so we can see the subject, "Cohen Park toilet doors changeover." Did you have any involvement in quoting for that?---No. I didn't price the job but obviously I was cc'd on it. So, I didn't price that, no.

The next - - -?---Who is actually end up doing these jobs?

Well, it's not on MFI 6. I don't have the answer to that right now but I can tell you it wasn't SDL. I'll try and find that out for you. If we go down to page 218 there's a tender submission for Punch Park amenities.---Yep. I, I priced this job up. That's my template for the public tender.

But SDL wasn't awarded that one?---No.

I can't tell you who did Cohen Park, I'm sorry.---Okay.

If we go to page 386, please. I don't have a quote here but this is a memorandum for Leichhardt Oval function room mechanical services. Do you see that under "subject"?---Yep.

20

Did you price any - - -?---I did, I did price this job. I costed it up but I don't, I think I didn't get this job, yeah.

And if we scroll down to the bottom of page 2 of that document you can see there, if we go down a bit further, please, you can see the prices. Do you see that?---Yep.

30

So you prepared, that would have been a tender, a proper tender that went because it's above 150 or 250,000?---Yes.

So you priced that but you didn't get the job, is that right?---Correct but I don't think my price was that high but I, I can't recall exactly but I don't know if my cost was that high, no.

Okay. Have you ever heard of NBR Mechanical Services Pty Ltd before?---No.

40

Okay. Progressive Air-Conditioning Engineering, have you heard of that firm?---No.

Okay. And lastly page 378. This is the Brown Street toilet tender. Do you recall that?---Yes.

And was this a matter that you thought you might have been successful in tendering for, that's SDL, but you didn't get it?---Correct.

What happened there? Can you tell the Chief Commissioner, please.---So we submitted a public tender. We got a few clarification which we responded promptly and I think it went quiet for a while and I, and it's
10 obviously awarded to, I believe Constructicon end up doing this job, Monty company, and I sort of said why is the reason why we didn't get the job and there was a response from Procurement Team about something with the termite protection that we didn't allow for, but there's no termite protections in the, in the, in the building. It's been excluded during the clarification process. So it just sounded a bit suss.

So was this one of the jobs that led you to form the view that you'd been blacklisted, SDL had been blacklisted?---Correct.

20 Okay. All right. Thank you. That can be taken down, please. Just excuse me, please, Chief Commissioner. I'll just make sure I've got this right. If page 49 of volume 5.1 can be brought up on the screen. If that can be blown up a little bit, please. Just the items down the bottom in the smaller table. There it says "withdrawn" and it's got 5,000, 40,000 and 10,000. Do you see that? And then there's "withdrawing" or maybe that should have been withdrawn but it's slightly different. Do you see that?---Yep.

That suggests that money is being taken out of somewhere, withdrawn.
---Yep.

30 Rather than it's just sitting in an account.---It's just been tallied up for the, for his duplex building.

Okay.---Yeah.

All right.

THE COMMISSIONER: Sorry, say that again. It's been what?---It's been tallying up for the duplex construction. Tony wanted to build a duplex.

40

MR ENGLISH: All right. I want to ask you some questions about Transport for NSW work now.---Okay.

And if volume 1.15 can be brought on the screen, please. This is another table that the Commission has prepared. It's the same as before where it includes the, if we look for example the first line. You see these are payments to the SDL Project Solutions' bank account from RJS Infrastructure Group and from Sanber Group. Do you see that?---Yep.

10 And you know Sanber Group that's the company that you contracted with for Victoria Street.---Correct.

And RJS Infrastructure Group you contracted with them for what project, that is SDL contracted?---I think we done some labour hire at Central Station.

Central.---Yep.

20 Is labour hire, does that mean you're just submitting an invoice, you're not responsible for the additional trades and expenses that go along with the job?---Oh, we, we had I believe four or five guys with, I mean, we, we were told what to bring, sort of jackhammer, wheelbarrow, so what tools and equipment to bring. And I believe there was an instruction onsite about getting some more materials and bags of - so we just sort of following instructions from - - -

But just say there needs to be steel purchased or cement - - -?---Yep.

30 - - - under the labour hire agreement is SDL responsible for purchasing the steel?---No.

So that goes to RJS Infrastructure has to purchase that, do they?---Correct.

And you're just supplying the men and - - -?---Toolings, yep.

- - - and the tools to do the job?---Correct.

40 Okay. But for Victoria Street you're responsible as project manager for the whole thing?---Correct, yep.

Okay.---I don't even think we saw Raj. Raj was, I don't even think he was there, yeah.

Okay, well, I just, if we just focus on this table, you can see the first entry, it's the same as the other one I took you to. There's \$100,000. If we go to page 3, please, you can see there, there's the credit for \$100,000. Do you see that on 7 September?---Yep.

10 And then if we go to page 23 you can see that - oh, that's another, on page 23 that's another copy of that entry. This only has - I've got to correct what I said to you. This only has the bank entries. It doesn't have the invoices as well. It just has the EFT entries.---But I did issue invoices, I'm - - -

I'm sure you did. I'm sure you did.---Yeah.

20 Yeah. Now, if we just go back to page 1. So \$642,336 is what the Commission has ascertained SDL Project Solutions was paid for the Victoria Street job. Does that accord with your recollection?---Yes. I, if they're there, they're invoices. It's about, it's about 500 and another 100-something grand of variation.

Yep, okay.---So - - -

30 And what did that job involve for SDL to do out there in Maitland?---Oh, we refurbished the, I think it's heritage, heritage train station. So I asked to send all my boys there to sort of, they've got, I think, yeah, I'm pretty sure we got Airbnb and pretty much relocate there for approximately 10 weeks. We got some, there was a lot of remediation around bricks and then we consulted with some of the heritage consultant just about bricks, and we done some possession work at night-time as well, so, yeah.

What were you and your team wearing out there? Were they wearing SDL uniforms?---No, I think we were, we were instructed to wear the RJS uniform, yeah.

Okay.---Mmm, mmm.

40 And did anyone ask you if you worked for Sanber Group or RJS out there when you were there?---I wasn't there full-time, but when I was there, no one, no one has asked me, no.

Okay. And was Mr Nguyen out there?---Nguyen?

Did you see him? When you were there, did you see him there, Tony?---He was there for the initial kick-off meetings, kick-off or tender meeting, but I don't think I seen him when I was out there, no.

Okay. And you mentioned yesterday that, what, was it a dangerous area and no one wanted to do the work out there, is that right?---That's correct, yeah. We had a few break-in as well, our site office, yeah.

10

To your site office?---Yeah.

Okay. Was there a safety induction performed for you and your team? ---Yeah, we had, that's where Tony sort of help us out with the getting the railway inductions, doing safe work method statements.

Yeah, but was there a - did anyone actually attend onsite for an induction or did Tony just do the forms?---No, we, we, there was a pre-start every morning, so, yeah.

20

Okay. And what about at the start of the project?---The kick-off meeting, I can't recall me attending the kick-off meeting, but I would assume there would be a kick-off meeting from Downer, yeah.

Okay.---I think invoices' numbers are on the descriptions on that thing as well.

30

Yeah. If we can go please to volume 3.8, page 218. So you just see there, that says ARTC inductions, and the email is 17 July 2017. Do you see that?---Yeah.

What's an ARTC induction?---Railway, railway induction.

Okay.---Railway and Transport.

Do you recall doing an ARTC induction?---Yeah, we did, we did the inductions there.

40

Okay. If we go down the next page, please. There's one for Monty. ---Yeah.

So you think that's legitimate, it was actually performed?---Yes.

Okay.---Yeah. We, we did medicals and set for I think one or two days inductions.

Sorry, what was the last part of that answer?---We set, we set one or two days of inductions, yeah.

Okay.---At, I believe it's in Burwood somewhere.

10

And just, the table that I took you to on page 49, we don't have to bring it up, it references that for Maitland Train, Mr Nguyen was to be provided \$10,208.30.---Yeah, I think it was ten grand. I think it was \$10,000.

And that just went into the monies for the house that you gave evidence to, about earlier, did it?---No, I think that was, like I said, that, I think that was paid to, either to Monty to pass it onto him.

So that was part of the cash that was paid?---Yeah. That's correct, yeah.

20

Okay. Okay. In relation to Central, if we can go back, please, to volume 1.15, you can see there it says that you were paid from RJS Infrastructure Group a total of \$148,202 including GST. Do you see that?---Yes.

Did SDL Project Solutions only do work at Central for RJS Infrastructure Group?---Yes.

30

Okay. Does that accord with how much SDL was paid for that job?---It seems a little bit high but I can't, I mean, it's, my invoices are there so it must have been, so, yeah. I thought there was only one invoice. There was one, only one time we, we done the job so - - -

So if we go to page 18, please.---Yeah.

You can see there's a reference to an invoice.---Yep.

And then if we go, please, to - - -?---There might be two, two platforms we did, yeah.

40

- - - page 34. If we can go to page 34. Here you can see this is the bank account of RJS. See how it's paid - - -?---Yep.

- - - for those amounts?---Yep.

And that's your invoicing numbering system, isn't it, 080613?---Yes.

And 080615.---Yeah.

And also if we go to page 35 you can see again 080629, again your invoicing system.---Okay, yeah.

10

And a payment for 69,138.42. Do you see that?---Yeah.

So that must have been for Central those payments, mustn't they?---Yeah, I think we, I think we done two sort of, I don't know what the period is. I think we done two platform.

That is - - -?---May - - -

20 That is a statement from December to March 2018 and 2019.---Yeah. So - - -

And how was it that SDL obtained that labour hire arrangement from RJS Infrastructure Group? How did you get that to work?---Tony, Tony said he, he needed, he needed some guys to help with the works.

Did he give you any instruction about how to price it or did you just price it genuinely yourself?---No. With the labour hire, so we gave him a rate of a supervisor will be this much and all the general labour will be this much.

30 So that was just a professional arrangement, was it?---Correct.

In relation to Victoria Street, did you have any discussion with Tony about how to price that job, or with Raj, did you have any discussion with him? ---No. We priced, we priced the job and obviously to, I think because of where he is, I think we put a bit more margin that what, what usual would be the case but we priced the job, individual line items, yeah.

40 And did you do that in consultation with Mr Sanber or Mr Nguyen or you just did it on your own?---No, we priced the job. We, we done it independent, yeah.

Independently, okay.---When we priced the job we done it independently and council job I would send the cost, this is how much I - yeah.

Right, I see. And what about variations at Victoria Street? Did you price them individually or did you receive instructions to inflate them or what happened there?---I, I mean, I know, I, I think during the Victoria Street Monty was onsite full-time. So a variation, I didn't look at it in, in full detail. So he, he was pricing the variation up.

10 Well, did they seem fair to you or did they seem - you must have reviewed them at some stage, being the principal of the company?---Yep.

Did they seem inflated?---I mean, I, I don't, I don't think, I, I can't recall being them inflated. I think we got prices and we put, I mean, in, in Sydney you would probably do it for 20% margin but out there, because we're sort of hiring all the accommodation there was a lot of costs. So we would be sort of charging around 30 per cent, which is, I thought, was reasonable. Yeah.

20 And in relation to Kingswood, SDL submitted a quote?---(NO AUDIBLE REPLY)

No, you're shaking your head.---I, I don't think I, I - no idea.

Can exhibit 34, volume, 1.4, page 303 please be brought up? This is an internal email at Downer but you can see it reads, "Hi Scott. Building works package for Kingwood has been updated and is ready for issue. It's located at" a web address. "Please could I have it issued to the following contractors for pricing and number 4 is SDL Project Solutions." Do you see that?---Yes.

Did you know anything about that, about Kingwood building works?---No. I, I don't, I can't recall pricing at, at all, or seeing drawings or any schedules of that type.

If we can go to page 335, please. You see that quote on the SDL Project Solutions letterhead 21 June 2019 and it's a quote for \$409,798.77 exclusive of GST signed by you?---No. I, I (not transcribable) to submit it. I, I don't, I, this is the first time I seen it. Is that, that signature - I mean, it is my signature but is it, it looks - - -

Just bear with me. If we go down one page you can see - - -?---The email?

No, I'll try and do one better than that for you, Mr Laphai. There's, just so you understand, again just looking at that, this doesn't look familiar to you? ---Not at all, no.

Okay. If we go down another page, you can see this metadata again and if we go down one more page, you can see the author. See it says in the middle of the page "meta office property author Tony Nguyen"? Do you see that?---Yes.

And then if we go one more page, you can see the email from Joanne Breen. Do you see that?---Yes.

Your eyes are lighting up. Have you seen that before?---I must have 'cause I was CC-ed on it, yeah.

That's right. Yeah.---But I, I didn't price the job at all, so - - -

Okay. Did Tony tell you that he was putting in a dummy bid on behalf of SDL for Kingswood?---I, I cannot recall having that discussion with him.

Okay. But you didn't price up that quote we've just looked at?---No, I didn't, I didn't price it, no.

I've finished with Transport now, just so you know, Mr Laphai. I'm just coming back to this issue about the cash paid to Mr Nguyen. If transcript page 141 can be brought on the screen, please, from the 21st of the third? It'll just take a moment, Chief Commissioner, just to bring that up. So this is coming up in the context of those items where it says "withdrawn" and "money". Remember I asked you questions about that? I just want to show you what Mr Nguyen said that meant, and what his understanding of how much cash he was paid was and - - -?---Yeah.

- - - you can comment whether, that might prompt a memory. If it does, it does or if it doesn't - - -?---Sure.

- - - you just let us know? All right. Thank you. So if we go down to the bottom you can see what Mr Nguyen says at the bottom, line 39, "See how there's items cost remaining."---Yep.

“So, yeah, so how there’s withdrawn so they are the withdrawn of the cash he’s given me.” And if we can go to the next page, please. And then again he says, second answer there, “So all the withdrawn was probably when he handed me the cash.” Do you see that?---Yep.

And Mr Nguyen said he thought he was paid an amount of \$60,000 in cash. You’re shaking your head there. Does that not accord with your recollection?---No.

10 Okay. I’ve probably asked you enough about that. I just needed to - - -?
---Yeah. What I recall was he’s actually had too much cash, that he didn’t want any more.

Yep.---Yep.

But when he said too much cash, you’d only given him 22,000, right?
---Yes.

20 Did he say he’d got cash from anyone else?---No, but I mean he was doing other things obviously with the Transport as well so - - -

Yeah. All right.

THE COMMISSIONER: Did he complain to you about short-changing him in respect of - - -?---I can’t - - -

- - - any cash on any occasion?---I can’t recall that.

30 MR ENGLISH: And just lastly in relation to IWC work you said you’d work out the cost price. I just want to make sure, when you worked out the cost price did that include your margin or not for IWC work for SDL?---No. Sometime I actually send him a (not transcribable) file of the kitchen guy’s quote or like for example I think the, for the air con I actually send him the air con guy price and then the building price that I price up so - - -

Yeah. So there’s nothing in that, there’s nothing in that where you did - on instances where you just sent through the quote from the third party there’s no mark-up for SDL?---No.

But would Mr Nguyen then tell you what mark-up could be added to that so that you could obtain the tender?---I wouldn't, not the percentage just the, I guess the last, the numbers like, you know, not, not - - -

10 He'd adjust the figures, would he, and would you check them to make sure there was a profit in it for SDL?---I'm not, the smaller one I don't think I checked but the rotunda one I think I, I, I recall checking the rotunda one before we submit it I think, or maybe he might give me the number and I looked back to my cost spreadsheet to see whether there's enough margin there, yes.

Yeah. You're not in the business of losing money at SDL, were you?---No.

No. That's the examination, thank you, Chief Commissioner.

THE COMMISSIONER: Thank you. What's proposed? I haven't received any requests for leave to cross-examine. Can the witness be released?

20 MR ENGLISH: I think my instruction is that perhaps he should just be stood over if it's convenient, Commissioner, and perhaps the Commission's solicitors can inform whether at a later date he can be released.

THE COMMISSIONER: Yes, all right. Mr Laphai, at this stage I can't release you entirely from the summons. There may be a reason to call you back to answer further questions but for the moment you can stand down. You're free to go. We'll be in contact with you. The Commission will be in contact with you in the event that you're required again.---Okay.

30 Thank you. You can step down.

THE WITNESS STOOD DOWN [12.59pm]

THE COMMISSIONER: Yes, all right. Well come back at 2 o'clock.

LUNCHEON ADJOURNMENT [12.59pm]